

STATE OF CALIFORNIA  
THE RECLAMATION BOARD  
REGULAR BOARD MEETING

RESOURCES BUILDING  
1416 NINTH STREET  
AUDITORIUM  
SACRAMENTO, CALIFORNIA

FRIDAY, DECEMBER 15, 2006

9:00 A.M.

JAMES F. PETERS, CSR, RPR  
CERTIFIED SHORTHAND REPORTER  
LICENSE NUMBER 10063

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

BOARD MEMBERS

Mr. Benjamin Carter, President

Mr. Butch Hodgkins, Vice President

Ms. Lady Bug Doherty, Secretary

Ms. Rose Marie Burroughs, Member

Ms. Teri Rie, Member

STAFF

Mr. Jay Punia, General Manager

Mr. Stephen Bradley, Chief Engineer

Ms. Nancy Finch, Legal Counsel

Mr. Dan Fua, Supervising Engineer

Mr. Scott Morgan, Legal Counsel

Ms. Lorraine Pendlebury, Staff Assistant

DEPARTMENT OF WATER RESOURCES

Mr. Robert Charney, Division of Flood Management

Mr. Larry Lee, Project Manager, American River Watershed Project

Mr. Rod Mayer, Chief, Division of Flood Management

Mr. Mike Mirmazaheri, Chief, Floodway Protection Section

Mr. Ricardo Pineda, Chief, Floodplain Management Branch

Mr. Keith Swanson, Chief, Flood Project Maintenance Branch

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES CONTINUED

ALSO PRESENT

Mr. Rex Archer, Citizens of Linda

Mr. Lewis Bair, Sacramento River West Side Levee District

Mr. John Bassett, Sacramento Area Flood Control Agency

Mr. Paul Brunner, Three Rivers Levee Improvement Authority

Mr. Joe Countryman, MBK Engineers

Mr. Thomas Foley, Concerned Citizens for Responsible  
Growth

Ms. Lisa Kirk

Mr. Chuck Rairdan, United States Army Corps of Engineers

Mr. Ric Reinhardt, MBK Engineers

Mr. Tony Schwall, Reclamation District 900

Mr. Kevin Tillis, Hultgren-Tillis Engineers

Mr. Wes Tilton, representing landowners and property  
owners

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

## INDEX

	PAGE
1. Roll Call	1
2. Closed Session	
3. Approval of Minutes - October 20, 2006	1
4. Approval of Agenda	6
5. Public Comments	7
6. Report of Activities of the Department of Water Resources	30
7. State of Emergency - Board Actions	41
8. Three Rivers Levee Improvement Authority Monthly Report	43

## CONSENT

9. Consent Calendar	
---------------------	--

## REQUESTED ACTIONS

10. Project Study Agreements	
A. Folsom Dam Safety and Flood Damage Reduction Project	87
B. American River Watershed(Natomas Features) Project	91
11. Property Management	100
12. Enforcements	100
13. Applications	
A. Application No. 18068, David Stroud, Yolo County	100
B. Application No. 17659-A, River Partners, Glenn County	117

## INDEX CONTINUED

	PAGE
14. Permit Actions	124
15. Delta Levees	
Bethel Island	124

## INFORMATIONAL BRIEFINGS

16. FEMA Procedure Memorandum 43, Provisionally Accredited Levees	187
---	-----

## BOARD REPORTS

17. Board Comments and Task Leader Reports	200
18. Report of Activities of the General Manager	201
19. Future Agenda	202
20. Adjourn	206
Reporter's Certificate	207

## 1 PROCEEDINGS

2 PRESIDENT CARTER: Good morning, ladies and  
3 gentlemen. Thank you for your patience.

4 This is the State Reclamation Board, our December  
5 meeting. Call the meeting to order.

6 And, Mr. Punia, would you call the roll please.

7 GENERAL MANAGER PUNIA: Good morning. Jay Punia,  
8 General Manager, Reclamation Board.

9 For the record, except Board Member Teri Rie, the  
10 rest of the Board members are present.

11 PRESIDENT CARTER: Okay. Thank you.

12 For the record, the Board did not enter into  
13 closed session to discuss litigation as agendized or  
14 noticed on Item 2 of the agenda today.

15 So with that, we'll move to Item 3, Approval of  
16 the Minutes for October 20th, 2006.

17 SECRETARY DOHERTY: I have a few corrections of  
18 the minutes, if I may.

19 Teri Rie is listed as Secretary. She's the  
20 member. And if the Board members would pick up their  
21 minutes too. It's going to help me in a minute. Lady Bug  
22 Doherty is the Secretary.

23 On the second page at the bottom we should  
24 insert, "At 10 a.m. Teri Rie, Member, arrived."

25 On the next page, under "State of Emergency,

1 Board Actions, by Jay Punia," on the rest of these most of  
2 the time the comments have been attached to the minutes so  
3 that we know what they are. And if we could attach his  
4 comments from now on into the minutes, to be included,  
5 that would be helpful.

6 On page 4, "Ms. Annalena Bronson," the first big  
7 paragraph, "provided..."

8 Down on the third line on that same paragraph,  
9 "recommendation" -- "the Corps' recommendation..."

10 Next line "is appropriate. Mr. Pete Ghelfi,  
11 Director of Engineering, also spoke."

12 At the end of 12, 12:20 was the lunch break and  
13 we reconvened at 1:20.

14 Next line, Applications. The application was  
15 Yolo County, not Sacramento County.

16 On page 5, first paragraph, third line down  
17 towards the right it says, "will allow the applicant to  
18 construct a new subdivision..." We don't give out permits  
19 to install -- or to put in subdivisions. So if it's  
20 acceptable to all of you, "This application, if approved,  
21 will allow the applicant to proceed with his encroachment  
22 permit to install the drainpipe, place fill along the  
23 landward toe of the levee, construct two access ramps, and  
24 place 2,000 linear feet of aggregate base on the crown of  
25 the Colusa Basin drain levee."

1           Is that acceptable to all of you?

2           All right. So we strike out "construct a new  
3 subdivision of 63 homes."

4           Next paragraph, "Upon motion by Ms. Rie, seconded  
5 by Ms. Doherty, and carried." It was not unanimous. Ms.  
6 Burroughs voted "no."

7           Next line, after the semicolon, "that while  
8 subdivision initial study..." It should be "that while  
9 the subdivision initial study..."

10          And I'm confused on this and I'm going to need  
11 your help. It says, "tiered mitigation negative  
12 declaration..." Can somebody clarify that for me? Does  
13 it mean tiered as in different levels?

14          Mike's here.

15          STAFF COUNSEL MORGAN: Who's the staff person?  
16 Is that Mike?

17          FLOODWAY PROTECTION SECTION CHIEF MIRMAZAHERI:

18          Good morning.

19          Not having a chance to look at the minutes, I'm  
20 not sure what you're referring to.

21          SECRETARY DOHERTY: Well, it says, "that while  
22 the subdivision initial study tiered mitigation negative  
23 declaration approving encroachment permit" -- oh, "adopted  
24 by Yolo County is adequate..." I didn't know what it  
25 meant by the "tiered negative..."



1           PRESIDENT CARTER: This is having to do with the  
2 White subdivision in Mr. -- the Castle Properties?

3           FLOODWAY PROTECTION SECTION CHIEF MIRMAZAHERI:

4           Right, Knights Landing. I'm not sure what that  
5 means either. I think it probably should be stated the  
6 way it was stated. The environmental documentation was  
7 adopted by the Yolo County on that project. That's my  
8 recollection.

9           SECRETARY DOHERTY: Well, we may have to go over  
10 that.

11          PRESIDENT CARTER: I think we might have to go  
12 back to the transcript to --

13          SECRETARY DOHERTY: I don't know what it meant.

14          PRESIDENT CARTER: -- to identify exactly what  
15 the motion said.

16          SECRETARY DOHERTY: And down to the second to the  
17 last paragraph, at the very last sentence of that,  
18 "...Hodgkins, yes; Ms. Rie, no; Mr. Carter, no. Motion  
19 fails 3 to 2," not 3 to 1.

20          Page 6, the second dark paragraph, "Upon motion  
21 by Mr. Hodgkins and seconded by Ms. Doherty, motion  
22 passes/carries 4 yeses, 1 abstention."

23          And under "B, Mr. Steve Bradley." Second  
24 sentence -- the sentence below that, "Mr. Steve Bradley,  
25 Chief Engineer for the Board.....no staff recommendation

1 or staff report on this item, due to priority of working  
2 on a lawsuit..."

3 The very last sentence, "motion fails 3 no, 1  
4 yes, 1 abstention."

5 Page 7, Board Comments. "Board Member Burroughs  
6 reported that" -- remove the word "requested."

7 And under Doherty's comments, it ends with  
8 "electricity and wild fires."

9 Under "Report of Activities of the General  
10 Manager," the first sentence, "NRDE" I think is supposed  
11 to be "NRDC." And then "lawsuit," not the plural.

12 Third line from the bottom, "Board members and  
13 staff were invited..."

14 And that is all. And I'll give you my copy.

15 PRESIDENT CARTER: What I would suggest maybe in  
16 light of the fact that we have some -- we need some  
17 clarity on the motion that was made with regard to Castle  
18 Principles, that we table the approval of these minutes  
19 until next meeting and we'll have a revised version. And  
20 maybe, Ms. Doherty, you can work with staff to get a  
21 cleaned-up version of the minutes.

22 SECRETARY DOHERTY: All right. That would be  
23 fine.

24 PRESIDENT CARTER: And then resubmit them for  
25 Board approval.

1           Is that acceptable to everyone?

2           Okay, great. So we will table the approval of  
3 the minutes for October 20th to our next meeting.

4           Next is approval of the agenda for today, Item 4.

5           Let's see. Mr. Punia, did you have some  
6 suggestions?

7           GENERAL MANAGER PUNIA: There are no proposed  
8 changes to this agenda.

9           PRESIDENT CARTER: Okay. Anybody else have any  
10 changes --

11           STAFF COUNSEL MORGAN: Actually we do need to  
12 table Item I think 13B. And we've advised the applicants  
13 about that. That's the River Partners permit application  
14 to plant the mixed riparian forest up in Glenn County.

15           We've been meeting with the parties. And if  
16 you'd like, I can give you an update at some point in the  
17 meeting.

18           PRESIDENT CARTER: Okay. Maybe when we come down  
19 to that item, we can get an update from you on that.

20           STAFF COUNSEL MORGAN: Okay.

21           PRESIDENT CARTER: Great.

22           Okay. So we'll be tabling Item 13B.

23           Any other suggested changes?

24           BOARD MEMBER BURROUGHS: Just that we did have a  
25 closed session.

1           PRESIDENT CARTER: Right. And I noted that.

2           BOARD MEMBER BURROUGHS: Yes, that's fine.

3           PRESIDENT CARTER: Okay. Very good.

4           So we'll entertain a motion to approve the agenda  
5 with the tabling of Item 13B.

6           BOARD MEMBER RIE: I move to approve the agenda  
7 with the tabling of Item 13B.

8           VICE-PRESIDENT HODGKINS: I'll second.

9           PRESIDENT CARTER: We have a motion and a second.  
10 Any discussion?

11 All those in favor indicate by saying aye.

12 (Ayes.)

13           PRESIDENT CARTER: And opposed?

14 The motion carries you unanimously.

15 Okay. So now we're at a time here, Item 5,  
16 Public Comments. This is the time when any member of the  
17 public or staff can address the Board on items that are  
18 not agendized for today.

19 We ask that if you do, fill out these little  
20 white cards. They are on the table at the back. They're  
21 also available at the front desk here from staff. But  
22 fill those out so that we know to recognize you. And fill  
23 them out for agendized items if you want to address those  
24 items today as well. It just helps us work through and  
25 make sure that everyone is heard.

1           With that, I do have a couple cards for public  
2 comment.

3           So Mr. Tilton.

4           MR. TILTON: Good morning, Mr. President, members  
5 of the State Reclamation Board. My name is Wes Tilton. I  
6 live at 5596 Marlin Drive in Discovery Bay. As some of  
7 you know, I was here last month.

8           I come here because I was informed someone would  
9 contact me from this Board. No one has. We are coming  
10 into the rainy season. The levee is still failing. And  
11 now I understand that the seriousness of this isn't  
12 relevant, I suppose.

13           But I am a marine and over 40 years ago the  
14 president of the United States asked me to serve my  
15 country. I did so. I was put into harm's way. I served  
16 there for one year, one month and four days. I received  
17 two purple hearts and earned a medal for valor. And upon  
18 my return to this nation, I find that my property that I  
19 worked so hard for is taken, and this Board has done  
20 nothing to stop that. And it's taken for the benefit of  
21 others. And this is on your watch, because my land was  
22 taken with no recompense whatsoever. My property.

23           You have put me in harm's way and there's no  
24 recourse for me. I can neither sue in the Court for tort,  
25 nor for inverse condemnation.

1            "Please observe the following statutes as agreed  
2 to by we, the people, State of California, and sworn to by  
3 this body of persons."

4            The California Constitution, Article 1, it  
5 states: "All people are by nature free and independent  
6 and have inalienable rights. Among these are enjoying and  
7 defending life and liberty, and acquiring, possessing, and  
8 protecting property, pursuing and obtaining safety,  
9 happiness and privacy."

10           Article 3 in the Constitution states: "The State  
11 of California is an inseparable part of the United States  
12 of America and the United States Constitution is the  
13 supreme law of the land." Evidently not in this case,  
14 because California can take my property with no  
15 recompense. Supreme Court has so ruled. It happened on a  
16 levee and it happened on your watch.

17           "The powers of state government are legislative,  
18 executive and judicial. Persons charged with the exercise  
19 of one power may not exercise either of the others except  
20 as permitted by this Constitution."

21           An administrative agency, including an  
22 administrative agency created by the constitution -- which  
23 would be this Board -- they cannot declare a statute  
24 unenforceable unless it's done so by an appellate court.  
25 The appellate court ruled that no government, state --

1 California State agency has a mandatory duty to maintain a  
2 levee to any published standard.

3 Now, what that means is is that -- I don't see  
4 how the federal government can send money here and we tell  
5 the federal government we're going to maintain the levees  
6 to the federal standard, unless you commit perjury,  
7 because there's no mandated duty for any agency to adhere  
8 to the federal standard.

9 And I don't understand why this is. You use  
10 public funds and encourage agencies to do this, to  
11 actually commit perjury. Because I've spoken with FEMA.  
12 And on their article 34 and 43, where all agencies that  
13 protect floodplains have to be certified, and on there  
14 they have to state they will maintain that levee to Army  
15 Corps of Engineer standards.

16 They cannot do it because the State Supreme Court  
17 has spoken, no agency has a mandated duty to do that. So  
18 how are you going to say you're going to do it when the  
19 court says you can't or won't? It's perjury. It's on  
20 your watch. The money you spend isn't, in my estimation,  
21 legal.

22 Richard Wright said, "Of all things, men do not  
23 feel that they are guilty of wrong. If you make them feel  
24 guilty, they will try desperately to justify it on any  
25 ground. But failing that, and seeing no immediate

1 solution that will set things right without too much cost  
2 to their lives and property, they will kill that which  
3 invoke in them the condemning sense of guilt."

4           That is how I feel this very day, that California  
5 has done this very thing. Not only have they deprived me  
6 of my property, but done so without recompense. And this  
7 body politic right here, you're not elected, you're  
8 appointed, you either do somebody's bidding or else it's  
9 your own ethics on the line. Either way you have done  
10 nothing.

11           I was told the last time I was here and informed  
12 that someone would contact me. No one has. So the  
13 veracity of this panel is established. You care not that  
14 the levee that is failing, that protects the water supply  
15 of 22 million Californians, is inconsequential because you  
16 do not act. And you are empowered to act by the statutes,  
17 but you do not. You do this consciously and is a chosen  
18 decision of you not to act. I don't understand why. But  
19 it's not up to me to understand why. I can only record  
20 your non-action and what you have done to me and my family  
21 and my property. That is recorded.

22           BOARD MEMBER RIE: Mr. Tilton?

23           MR. TILTON: Yes, ma'am.

24           BOARD MEMBER RIE: I apologize. I wasn't here  
25 last month. What exactly happened to your property and



1 what did you ask the Board to do?

2 MR. TILTON: I asked for their help. It was  
3 before the Supreme Court came down and said they would not  
4 review the case -- the appellate case. It's unfortunate  
5 that none of your Board members have shared with you the  
6 documents that I gave them. If I had known that, I would  
7 bring those documents back. There were four pages, three  
8 of which were drawings that showed the condition of the  
9 levee that protects this water supply. It is still  
10 failing.

11 I don't wish to bore everybody and go back all  
12 over this. But your Board members know this. I have a  
13 transcript of what I said. But without the drawings it  
14 doesn't really -- you know, I don't know. I'd love to  
15 meet with you and talk with you and explain this, but  
16 nobody has ever called. No one. I don't understand that.

17 I mean I looked at this body as seeing  
18 individuals that have ethics and standards. You want to  
19 protect your families and all the lives that are entrusted  
20 in your care. I come to you with a question. And you  
21 shove it aside and it becomes inconsequential. It is not  
22 any of your concern, because no one called. No one. No  
23 one.

24 So, in conclusion, the only thing I can say is is  
25 this happened on your watch and your character has been

1 set. And that's an unfortunate part. Can you correct  
2 this? I don't know. Are you going to try? I don't know  
3 that either. But you're going to have to step up to a  
4 higher bar than what you're used to operating at before,  
5 because the whole State of California may not be  
6 certified. As Mr. Thomas from Michael Baker Junior  
7 Corporation so succinctly said, "It's going to be  
8 interesting to see what device is crafted to negate  
9 published law." He was speaking of the court case.  
10 Because how can public agencies sign a document,  
11 knowingly -- knowingly that they're going to commit  
12 perjury? And if they don't commit perjury, you're not  
13 supposed to send them money. Because you send federal  
14 money to public agencies to maintain the levees. How can  
15 you do that if it's not up to the Army Corps of Engineers'  
16 standards?

17 PRESIDENT CARTER: Thank you, Mr. Tilton.

18 MR. TILTON: Thank you.

19 PRESIDENT CARTER: I'm sorry that you're  
20 unsatisfied. I don't appreciate the indictments you made  
21 to the Board. We will have somebody contact you.

22 That's on the record. All right?

23 MR. TILTON: What does that mean, sir?

24 PRESIDENT CARTER: We will have somebody contact  
25 you before the year end.

1 MR. TILTON: I don't understand what for.

2 PRESIDENT CARTER: You have asked us to contact  
3 you. We are going to contact you and listen to your  
4 concerns. And the staff will try and understand the  
5 issue. They will also try and understand what the other  
6 side of the issue is from RD-800's perspective and what  
7 they have done. And we'll look at the Delta levee  
8 subventions funding that we are doling out, and address  
9 your accusations on this Board and your concerns.

10 MR. TILTON: Thank you, sir.

11 PRESIDENT CARTER: You're very welcome.

12 Mr. Bassett.

13 MR. BASSETT: Good morning, President Carter and  
14 members of the Board. My name is John Bassett. I am the  
15 Director of Engineering -- or one of the directors of  
16 engineering for the Sacramento Area Flood Control Agency.

17 We have recently submitted --

18 BOARD MEMBER BURROUGHS: Pardon me. We need to  
19 have you address the mike a little bit closer so we can  
20 hear you better.

21 MR. BASSETT: Okay. John Bassett with Sacramento  
22 Area Flood Control Agency.

23 We have recently submitted two applications to  
24 your staff for work that we are proposing to undertake in  
25 the Natomas basin.

1           The first application is a programmatic agreement  
2   that we would envision that the Board would issue to cover  
3   the general project as a whole.

4           And the second application is specifics to the  
5   first project that we expect to undertake in the 2007  
6   construction season, that being Phase 1 of the Natomas  
7   Cross Canal South Levee Improvements.

8           In the planning and bidding of the project, we  
9   are in need of a permit to undertake the cross canal  
10   improvements in the early March timeframe. So we are here  
11   today requesting that the Board, if it's necessary -- and  
12   I guess you can determine that -- if it's necessary to  
13   have two meetings to discuss that permit application, that  
14   you would take and hold a January meeting in 2007 so that  
15   we may brief the Board. And then potentially at your  
16   February meeting have your staff make a presentation or  
17   recommendation on the permit itself.

18           We are again in need of a permit in the first or  
19   second week of March. I don't know if you can do that or  
20   delegate that specific project permit to your staff or  
21   whether you want to address it as a body yourself.

22           So my request is to hold the January meeting if  
23   it's necessary to issue us a permit in the first or second  
24   week of March.

25           Thank you.

1           PRESIDENT CARTER: Thank you, Mr. Bassett.

2           We do have an item on the agenda today to discuss  
3 future agenda, and the January meeting will be part of  
4 that discussion.

5           MR. BASSETT: Thank you.

6           PRESIDENT CARTER: Thank you.

7           Mr. Bair.

8           MR. BAIR: President Carter and Board, thank you  
9 for your time. My name is Lewis Bair and I manage three  
10 flood control districts' local maintaining agencies on the  
11 Sacramento River covering about 80 miles of levee in the  
12 vicinity of the Tisdale Bypass. And I'm here today, one,  
13 to thank you for your support over the last, you know,  
14 three or four years. We've been working on a project to  
15 remove material from the Tisdale Bypass. I'd also like to  
16 thank Keith Swanson for his help so far in getting the  
17 project moving forward.

18           But my concern comes at about a year ago we  
19 received a timeline from one of Keith's staff, Michelle  
20 Ng, that concluded that we wouldn't be able to get the  
21 work done in '06. We're now at the point where Keith came  
22 out about a month ago -- and he's been very good with  
23 sitting down and talking to us and keeping us posted. But  
24 there was concern that we again wouldn't get the project  
25 done in '07. And this is very concerning to the locals.

1 We have a severe problem with the Tisdale Bypass. It's  
2 not functioning as an outlet -- how it should. There's  
3 about 2 million yards or a little less than 2 million  
4 yards of material in the bypass.

5           And in last year's storm event, which, you know,  
6 was on the realm of a ten-year event, our section of the  
7 river was at 110 percent of capacity. So that's a fairly  
8 mild storm in the scope of things. And I feel very  
9 strongly that in the next few years you have a huge  
10 liability us being members of the state. So cleaning that  
11 bypass is a responsibility of the state. And I, first of  
12 all, would like to offer up the locals to do anything we  
13 can to help facilitate some of the hurdles that we're  
14 having to get through.

15           But I also implore the Board to take a leadership  
16 role once again on this project to make sure that it  
17 happens with the construction, removal of the silt happens  
18 in '07. You know, whether that takes special action or  
19 not, I think it would be a very wise effort and time well  
20 spent by the State Board and by staff to get through that  
21 and get this project done in the next few years.

22           So I guess I would ask you to consider putting  
23 this on your agenda for January and to consider some sort  
24 of special work plan to make sure that this thing  
25 continues to move forward and to freely use the locals to

1 help in whatever way we can. I understand that some of  
2 the hurdles at this point are dealing with local land  
3 acquisition and how you deal with that material. And I  
4 think the locals certainly facilitated it, be happy to  
5 help do that to get past that. If we can help in any way  
6 on that part of the project, we would like to do that.

7 SECRETARY DOHERTY: Keith, you're here. So could  
8 you tell us how the acquisition of the land is going in  
9 relation to this project?

10 FLOOD PROJECT MAINTENANCE BRANCH CHIEF SWANSON:

11 Keith Swanson. I'm Chief of the Flood  
12 Maintenance Office.

13 I really can't get into details, because there  
14 are ongoing negotiations. We are pushing hard to bring  
15 this project to construction next summer. It's, you know,  
16 our highest priority. We're working as hard as we can.  
17 But it is a complex process. We have made plans on how we  
18 can deal with the coils. We had to change those plans  
19 because things have not worked out. And so we're on about  
20 a third iteration of how to deal with it. We're working  
21 hard. We will need some support from the locals assuming  
22 we are able to acquire property to spoil on. There will  
23 be some issues on potential conversion of agricultural  
24 property into a disposal site. We're working though to  
25 minimize those impacts and see if we can't farm the

1 property afterwards, after we're done disposing of  
2 material on top of it.

3           So we're working toward that. We've already had  
4 some discussions with the county on how we might get  
5 through their regulations. There will be issues with  
6 environmental mitigation that's going to be required for  
7 impacts. And we would need some local support and some  
8 Reclamation Board support on moving forward with  
9 identifying suitable sites. We've identified a number of  
10 sites now. We will be in front of the Board talking about  
11 those in the future. So we're moving forward.

12           Staff is working extremely hard. We brought on  
13 Jones and Stokes specifically to work on this project to  
14 augment our existing staff. But the folks that we have  
15 working on the project from Jones and Stokes are ex-Corps  
16 of Engineers employees, so we feel that that's going to  
17 speed our permit process dealing with the Corps.

18           We're making plans to work with Fish and Wildlife  
19 to prepare the biological opinions for them. We're hoping  
20 that that's going to help speed things up. We're on a  
21 tight timeframe, but at this point we're still planning on  
22 construction next summer. And we're doing what we can to  
23 bring the project home. We realize the significance of it  
24 and we're pushing for it. Not only this project, but  
25 we're also working on the Garmire Road Bridge replacement,



1 and we think that that's going to be going to construction  
2 in May, our target for that. And that's been the result  
3 of a fairly extensive environmental compliance process,  
4 design process, funding issues. And that's moving forward  
5 too.

6           So there's a couple of things that are moving  
7 forward to improve the situation in the Tisdale Bypass  
8 area. We also did an extensive amount of maintenance in  
9 the bypass this past year. We dealt with a tremendous  
10 amount of debris and took care of that. And, you know, we  
11 graded this site so that this year we're going to be able  
12 to pass as much flow as possible in the area.

13           We do have a problem on the long term with  
14 Tisdale and, that is, that it doesn't function the way it  
15 was designed. And it basically has to do with the design  
16 assumptions the Corps used when they designed the Tisdale  
17 Bypass. And that's going to be a long-term problem that  
18 we're going to have to deal with.

19           SECRETARY DOHERTY: Now, you can't give us  
20 details. But could you give us an approximate timeline  
21 for the first phase, which would be acquisition?

22           FLOOD PROJECT MAINTENANCE BRANCH CHIEF SWANSON:

23           We are currently negotiating with property owners  
24 in the area, and we have begun to exchange documents with  
25 them. And locals are reviewing -- are having their legal

1 counsel review documents now that would allow us to move  
2 forward -- if there's an agreement reached, it would allow  
3 us to move forward with some of our environmental  
4 documents that disclose the specific properties. You  
5 know, the hope is that this will happen within the next  
6 couple of weeks.

7           We're doing what we can to allow us to move  
8 forward. This is a critical path item. And so we're  
9 doing what we can to come to an agreement that would bind  
10 up the property, allow us to move forward while details  
11 are being worked out. So we've talked with our Land  
12 right-of-way folks. We've told them the significance of  
13 it, the importance of it. They're doing what they can to  
14 expedite the process. And there's active discussions  
15 going on with various property owners.

16           PRESIDENT CARTER: Thank you.

17           BOARD MEMBER BURROUGHS: Mr. President, I have a  
18 question for Mr. Bair.

19           Do you have any recommendations -- you alluded to  
20 that there might be some things that you could help with  
21 or expedite. Do you have any specific recommendations  
22 that -- or ideas that would help improve the situation?

23           MR. BAIR: Well, I think there's a couple of  
24 things. You know, we're very familiar with the land  
25 owners that are there, although it's the opposite side of

1 the river from myself. And Keith has started talking to  
2 specific individuals.

3           One of my thoughts is -- you know, there's room  
4 for part of the material in a different location that's  
5 already owned by the state. And I'd hate to do this  
6 project incrementally. But if -- you know, the problem  
7 right now is you have to submit your environmental  
8 documents well ahead of starting construction, what Keith  
9 was saying is they have to define the project and get the  
10 property. But you could define a portion of the project  
11 and submit that.

12           I would like to obtain property and get that all  
13 done at once. But it really is a situation where anything  
14 would help us right now. I mean it's really a bad  
15 situation where they're splitting flows.

16           You know, another option that I think is out  
17 there is trying to spread the property out further and not  
18 doing acquisition, over a broader area, more acreage.

19           But, you know, to be honest, Keith is much  
20 further down the line on working with those folks. I just  
21 would like to be helpful. And I think Keith's doing a  
22 great job on it.

23           My concern is that it's just completely  
24 unacceptable for us not to get this thing fixed in any  
25 way -- for any reason. And I had brought this up with Les

1 Harder at a local meeting that, you know, we're doing  
2 emergency repairs on critical erosion sites, and the  
3 emergency is the Tisdale Bypass. If there's any way to  
4 get this done, it just needs to be done.

5 SECRETARY DOHERTY: This request is going to soon  
6 be ten years old.

7 MR. BAIR: It was cleaned in the mid-eighties.  
8 They removed a similar amount of material in the  
9 mid-eighties. It's just part of slowing down the velocity  
10 of the river and you get deposits. So it's part of the  
11 maintenance of this bypass. So at this point it's  
12 performing at less than 50 percent of it's design  
13 capacity, about 45 percent, while the downstream channel's  
14 at 110 percent.

15 Keith did allude to the fact that it won't reach  
16 the full capacity of 38,000 cfs. That's perfectly fine by  
17 the locals. You know, if we could get above the 17,000  
18 thousand cfs -- we're only exceeding our channel capacity  
19 by 3,000. If we could get to 25,000 cfs, we would be in  
20 tremendously better shape than we're in now. I mean  
21 people tell me it's, you know, a bad section of levees.  
22 And I tell them, no, it's probably the best section of  
23 levees in the whole system. They're standing up to 110  
24 percent every year.

25 PRESIDENT CARTER: We'll continue to follow up

1 each month with DWR as part of their monthly update and  
2 report on their activities. This will be a part of that  
3 report. And if it's not, we'll ask the question.

4 MR. BAIR: Okay. Thanks for your time.

5 PRESIDENT CARTER: Thank you.

6 VICE-PRESIDENT HODGKINS: Keith, I understand you  
7 can't disclose details because you're in negotiations.  
8 But can you give us a sense of whether this is a price  
9 issue or fundamentally an issue with property owners who  
10 don't believe the state should take their property?

11 FLOOD PROJECT MAINTENANCE BRANCH CHIEF SWANSON:

12 I think it's more a procedural issue. I think  
13 its more procedural issue. I think property owners will  
14 sell property for our use if we're willing to pay enough  
15 money. And it's just going through the process and  
16 filling out the various -- you know providing the various  
17 justifications that are necessary.

18 It's just government acquisition of property is a  
19 very defined process. And so we're moving forward. I'm  
20 confident it's going to happen. And, you know, it's just  
21 a matter of how soon we can move on with the next step.

22 VICE-PRESIDENT HODGKINS: Okay. Because I think  
23 the thing that I was thinking is if you're going to have  
24 to condemn or if you think you might end up there, we  
25 ought to get started on it.

1 FLOOD PROJECT MAINTENANCE BRANCH CHIEF SWANSON:

2 We don't think we're going to condemn. We don't  
3 think we're going that direction.

4 VICE-PRESIDENT HODGKINS: All right. Because  
5 that takes a minimum of six months.

6 SECRETARY DOHERTY: In what direction?

7 VICE-PRESIDENT HODGKINS: Well, there are  
8 legal --

9 SECRETARY DOHERTY: I just didn't hear what your  
10 question was.

11 VICE-PRESIDENT HODGKINS: I was asking him if  
12 they'd have to condemn it.

13 SECRETARY DOHERTY: Oh, I'm sorry. I got you.

14 VICE-PRESIDENT HODGKINS: You have to start with  
15 resolution of intention, resolution of necessity. And  
16 there are time limits on those. And adopting those  
17 doesn't mean you will condemn. It simply starts the  
18 process, so that the clock is running. And if the  
19 negotiations don't come to fruition, it puts you in a  
20 position where you can go forward and condemn. And I  
21 don't know if this Board would consider doing that or not.  
22 But that's part of what we have in the way of tools to  
23 help with this kind of a problem.

24 PRESIDENT CARTER: Mr. Swanson, you will have  
25 something significant to report in January then --

1 FLOOD PROJECT MAINTENANCE BRANCH CHIEF SWANSON:

2 I would hope so.

3 PRESIDENT CARTER: -- in terms of progress?

4 And so that --

5 FLOOD PROJECT MAINTENANCE BRANCH CHIEF SWANSON:

6 Because if we don't, then we probably would be in  
7 a situation where we would have to condemn it. If we  
8 can't announce, you know, what property we're looking at  
9 and have our environmental document and our EIS released  
10 by then, then we would be in trouble schedule-wise.

11 PRESIDENT CARTER: So what we'll do then is  
12 consider this item for a specific agenda item for the next  
13 meeting. And we'll then have a discussion here at the  
14 Board with regard to what the appropriate next steps are.

15 FLOOD PROJECT MAINTENANCE BRANCH CHIEF SWANSON:

16 Sure.

17 PRESIDENT CARTER: Great.

18 Why don't you just stay right there. And we'll  
19 have the report of the Department's -- report of the  
20 activities of the Department of Water Resources.

21 Yes, Mr. Foley?

22 MR. FOLEY: I forgot to put -- I wanted to speak  
23 to the board, but I forgot to -- items before us.

24 PRESIDENT CARTER: You don't have a card here?

25 MR. FOLEY: I didn't know you had to put a card

1 in for that.

2 PRESIDENT CARTER: Okay. Mr. Swanson, if you'd  
3 be a little more patient please.

4 Yes, Mr. Foley.

5 MR. FOLEY: Thank you.

6 I didn't realize -- I'm sorry. I just didn't  
7 realize I'd need another card for that.

8 I'm Tom Foley from Yuba City, the Director of a  
9 small nonprofit, Concerned Citizens For Responsible Growth  
10 that we began out of concern for Plumas Lake development,  
11 about levee protection, about flood protection. I have a  
12 few comments the general -- the whole system.

13 The public has approved billions in bond money to  
14 bring about a higher level of flood protection in the  
15 Central Valley and elsewhere in California. Those  
16 billions must be met with sincerity and competency on the  
17 part of public officials. If not, much of the bond monies  
18 will be misspent and waste.

19 The Reclamation Board is the public agency with  
20 the purpose and the powers to oversee, to protect and to  
21 approve the Central Valley plan of flood control. The  
22 Board has powers granted to it by the public through the  
23 Legislature which no other public agency has. Those  
24 powers are necessary to fulfill its purpose.

25 The Board fails the public if it does not use its



1 powers to the fullest extent necessary to protect the  
2 public. The bond monies must be spent wisely and the  
3 Board's powers must also be expended wisely to get  
4 improvements done. Unused power and unused money will not  
5 get the job done.

6           It will not be legally possible for the Board to  
7 exceed its authority. Any private interest that contests  
8 the Board's authority have the protection of our legal  
9 system. Borrowing Lincoln's words, "We must think anew  
10 and we must act anew." After Katrina and after Paterno,  
11 the Board and the public must think anew and let's act  
12 anew.

13           Inaction is costly. In New Orleans inaction by  
14 irresponsible public agencies cost \$100 million and a  
15 thousand lives. A conservative estimate in the Central  
16 Valley would be running about 500 million a year, just an  
17 estimate, until Central Valley urban areas have 500-year  
18 protection. The 500 million a year estimate would be a  
19 blended average of probability costs of catastrophic  
20 flooding and average yearly costs of emergency task force  
21 operations to our flood control system. We spend, I think  
22 the estimate is, like \$300 million a year to just keep it  
23 as it is, not even big flooding.

24           The Board's powers give it responsibilities no  
25 other public agency has. The Rec Board has been

1 instructed by the Legislature to work closely with the  
2 Army Corps, DWR, and local agencies.

3 But to work with does not mean abeyance of  
4 authority and responsibility. Legislatively and  
5 historically The Rec Board is the flood control board for  
6 the Central Valley. A weak, passive, inactive board will  
7 be throwing billions of bond money into the wind.

8 Why is the Board not calling for 500-year  
9 protection for urban areas? We all have the benefit of  
10 the Galloway report to give us guidance.  
11 Five-hundred-year protection later and not now will cost  
12 twice as much for the same result. There might be private  
13 interests that will benefit from only 200-year protection;  
14 the public won't.

15 Thank you.

16 PRESIDENT CARTER: Thank you, Mr. Foley.

17 With regard to some of those comments, Mr. Foley,  
18 it might be useful to also -- there are some -- I guess  
19 the public outreach sessions were this week with regard  
20 to -- DWR is currently holding some stakeholder meetings  
21 and discussions on how the bond money is going to be  
22 spent, and also the state plan of flood control. Your  
23 comments would be very valuable in those sessions as well.

24 MR. FOLEY: Thank you.

25 PRESIDENT CARTER: Very good.

1           Item 6, Report of the Activities of the  
2 Department of Water Resources.

3           FLOOD PROJECT MAINTENANCE BRANCH CHIEF SWANSON:

4           Good morning, again. Keith Swanson, Chief of the  
5 Flood Maintenance office. But I'm here in an acting  
6 assignment as the Chief of the Division of Flood  
7 Management. I don't know if you guys were informed, but  
8 Rod Mayer has been given a special assignment to work on  
9 bond implementation. And so he's working directly with  
10 Les Harder on that. And in the interim I've been asked to  
11 act in Rod's stead.

12           I'm going to ask you for something a little bit  
13 different with this report. And, that is, I'm hoping that  
14 you would consider continuing the item after I give you  
15 kind of a rundown on some of the basic things to allow  
16 either Rod or Les to come back this afternoon. They would  
17 like to give you an update on bond implementation  
18 strategy. And so if you would be willing to continue the  
19 item, then they would plan on coming back this afternoon  
20 and giving you a presentation. So I'm hoping that will be  
21 okay with you.

22           PRESIDENT CARTER: That will be fine. We'll plan  
23 on continuing this Item 6 for the afternoon.

24           FLOOD PROJECT MAINTENANCE BRANCH CHIEF SWANSON:

25           Fantastic.

1           Okay. Well, then I'll move on. A couple  
2   comments on the weather. This current rainstorm that  
3   we're seeing now should be moved out by the afternoon. It  
4   caused a little bit of high water on the Smith and the  
5   Klamath on the northwest coast. We might see Tisdale  
6   Bypass spill tomorrow morning for just a little bit, maybe  
7   800 cubic feet per second, not a whole lot of water.  
8   Probably Saturday there's a colder storm moving in on the  
9   Central Coast and southern California, nothing to really  
10  be too alarmed about.

11           Long term, I think you've heard it before, that  
12  there's expected that an El Nio will develop in the  
13  tropical pacific. And that's likely to cause higher than  
14  expected rainfall in southern California. Pretty much  
15  average rainfall here in northern California.

16           As far as administrative update, Flood  
17  Management's been working real hard on getting their  
18  budget change proposals to the Department of Finance.  
19  Those will be released with the Governor's budget. We  
20  have the third year of our strategic plan -- our  
21  three-year strategic plan will be a part of that. And  
22  then there's a number of documents that deal with bond  
23  funding, both capital outlay and support.

24           We've been working real hard. We had 50 new  
25  positions in flood management this fiscal year. Those

1 positions had a six-month time rule, that they had to be  
2 filled in a six-month time period or we would lose them.  
3 I'm Happy to report that we got the people in all 50  
4 positions. Now, that's not to say that our hiring is done  
5 though, because some of those were promotions of  
6 individuals. So now we've got to back-fill behind the  
7 people that were promoted. So we've got a lot more  
8 personnel actions to get through in the coming months.  
9 And it's going to extend next year because we're expecting  
10 even more new positions next year associated with all the  
11 bonds -- or all the BCPs that we're expecting will be part  
12 of the Governor's budget.

13           We've been busy with AB 142 funded projects.  
14 That's the 500 million that we got last year. Erosion  
15 repair activities have been going on for a considerable  
16 time now. The 33 original critical erosion sites have all  
17 the structural repairs completed.

18           There was 24 new critical erosion sites that were  
19 identified in the annual Ayres survey that the Corps  
20 funded. Eight of the sites are being repaired by the  
21 Department of Water Resources. Rock placement has  
22 started. There's going to -- it's going to be a phased  
23 approach. Toe rock is going in right now to address the  
24 immediate structural concerns. That work has started.

25           The Corps of Engineers is going to take on 14

1 sites. And they initially had talked about a mid-January  
2 construction start for that work. It's actually going to  
3 be accelerated, and probably right after the first of the  
4 year they'll be out on the sites starting to do repair  
5 work.

6           There's two sites on Cache Creek that are being  
7 deferred. There will be setback levees constructed. And  
8 just because of the wet weather, that work will be put off  
9 until summertime. In the interim there are plans made to  
10 deal with emergency action. There's discussion of  
11 stockpiling material on-site to be able to address any  
12 problems should they develop.

13           There were a number of PL 84-99 sites. There was  
14 actually 47 sites that were identified for immediate  
15 action. And then if a cost ratio's greater than 1, that  
16 economically there was a reason, justification to move  
17 forward. Of those sites, 10 have already been complete  
18 and the other 37 will be all under construction this  
19 month.

20           The Levee Evaluation Program has got going, is  
21 moving forward. The initial phase is looking at I think  
22 it's 340 or 360 miles of urban levee. Drilling has  
23 already started in West Sacramento, Marysville, and RD-17  
24 on the San Joaquin River. Things are moving forward  
25 rapidly on that front.

1           Sediment removal. We just talked about Tisdale  
2 Bypass. That will be funded through AB 142. And as  
3 explained before, we were working hard to make sure that  
4 that happens next summer.

5           The Fremont Weir sediment removal project was  
6 partly funded through AB 142. And I told you I think last  
7 meeting that work is complete. We moved about a million  
8 cubic yards out of the Fremont Weir area of the Yolo  
9 Bypass.

10          South Sac FEMA certification is moving forward.  
11 My understanding that everyone is very optimistic that the  
12 Corps will be able to certify the area by mid-January. I  
13 think this is an example of a really successful  
14 partnership between the Corps, SAFCA, the Department of  
15 Water Resources, and the Rec Board. You know, I'm hoping  
16 that January you'll have the opportunity to acknowledge  
17 some of the hard work that staff from all of the agencies  
18 have, you know -- who have been working on this, they  
19 acknowledge the hard work and the success.

20          There's a couple of punch-list-type items that  
21 appear to be well under control, and should be wrapped up  
22 by the end of the year.

23          Operation and maintenance updates. Our levee  
24 inspection group was targeting to complete all of their  
25 pre-season flood inspections, 107 local maintaining

1 agencies, by today. There were only a couple left that  
2 were scheduled to be complete. The report that documents  
3 the results of that inspection is being prepared right  
4 now.

5           Also, our levee inspection group has been working  
6 with the Corps of Engineers on what we refer to as  
7 verification inspections. I think you're all aware that  
8 the Corps has come up with new policy guidance on levee  
9 inspections. They've cracked down quite a bit on what  
10 they feel is acceptable maintenance. The Corps has been  
11 going out and reviewing levees with the Department. And,  
12 you know, it's likely that some of our local maintaining  
13 agencies' maintenance will be viewed as unsatisfactory,  
14 which could lead to loss of PL 84-99 eligibility.

15           There's a December 20 briefing for the local  
16 maintaining agencies here in this building from 9 to 11, I  
17 think. The letter went out under Pete's signature -- or  
18 under Jay's signature. And so I think that's something  
19 that's going to be evolving in the future.

20           There's a concern on a lot of people's part  
21 because, you know, this is a major change from the past  
22 areas that have been consistently rated as satisfactory  
23 are now being brought into question as to, you know, the  
24 adequacy of the maintenance. And some of the  
25 areas -- some of the, for instance, vegetation on levees



1 probably predates project turnover, and so that's a  
2 concern to us all as we are facing, you know, new  
3 standards.

4 BOARD MEMBER RIE: Can I ask you a question?

5 FLOOD PROJECT MAINTENANCE BRANCH CHIEF SWANSON:

6 Yeah.

7 BOARD MEMBER RIE: Are these new standards and  
8 new policies, or simply going back to 20810 and reviewing  
9 what we already have for the last 50 years?

10 FLOOD PROJECT MAINTENANCE BRANCH CHIEF SWANSON:

11 I think it's just interpretation of the  
12 standards. The Corps would argue that the operation and  
13 maintenance requirements are clearer laid out in the  
14 operation and maintenance manual and that we collectively  
15 have just not been meeting those standards.

16 BOARD MEMBER RIE: Okay. So they're not new  
17 standards; it's simply referring back to the O&M manual to  
18 make sure that they are complying to the timelines and the  
19 type of inspections that are outlined in the manual?

20 FLOOD PROJECT MAINTENANCE BRANCH CHIEF SWANSON:

21 Type of inspections and type of work.

22 BOARD MEMBER RIE: Okay.

23 VICE-PRESIDENT HODGKINS: Keith, isn't there also  
24 a proposed change associated with vegetation on levees  
25 that in effect would require that all vegetation be

1 removed?

2 FLOOD PROJECT MAINTENANCE BRANCH CHIEF SWANSON:

3 Again, I think it's an interpretation of the  
4 standards. The standards were written back in the  
5 fifties. And they were really written around projects  
6 like, you know, the Mississippi River or something like  
7 that, where a brand new levee was built, setback from the  
8 waterway. And so we've had those standards, you know,  
9 always, but we haven't necessarily enforced them. And so  
10 here on the -- you know, on the Sacramento River, for  
11 instance, we had levees that, you know, we have a hundred  
12 year old tree on them. And that tree has been on there  
13 when the project was, you know, turned over to the local  
14 maintaining agencies. Nobody ever said that that tree had  
15 to be removed. And so now we're saying that -- well, the  
16 standards say you're not to remove the tree. And, you  
17 know, you're the local maintaining agency and you're  
18 responsible for the standards, so you need to figure out  
19 how to get the tree off.

20 In your briefing package there was a copy of a  
21 letter that Lester Snow wrote to Mayor Heather Fargo. And  
22 I wanted to point that out because I think at the last  
23 meeting there was questions on the Department's land-use  
24 policies. So I wanted to just point that out. I'm not  
25 going to go into great detail. I think you can read the

1 letter. It pretty well, you know, lays out where the  
2 department is going on that.

3           As far as legislation, I included a couple of  
4 quick descriptions on ongoing legislation. I just handed  
5 out something that's a little bit more comprehensive.  
6 Kind of the bottom line on the legislation is that it's  
7 likely to be evolving in the next months. A lot of the  
8 bills that were introduced are considered to be place  
9 holders and likely will change with discussion. I wasn't  
10 going to go into, you know, great detail on that because  
11 I -- really I don't follow them that close and I don't  
12 have much more to add beyond what the summaries are that  
13 are provided you.

14           So with that, I'm open for questions or  
15 anything --

16           BOARD MEMBER RIE: Is there going to be any more  
17 stakeholder meetings? I don't think there was very much  
18 publicity at this week's meetings. So will there be more  
19 in January perhaps?

20           FLOOD PROJECT MAINTENANCE BRANCH CHIEF SWANSON:

21           Probably the folks this afternoon could answer  
22 that better. But it's my understanding that there will be  
23 additional stakeholder meetings in January targeted for  
24 the general public. These initial stakeholder meetings,  
25 my understanding was, were fairly closely focused.

1           PRESIDENT CARTER: Any other questions for Mr.  
2 Swanson?

3           I thought it was a revelation that under DWR  
4 land-use policies the Interagency Flood Management  
5 Collaborative Program, the report says there was a group  
6 consensus that it makes sense to fix erosion sites when  
7 they are small rather than waiting until the problem has  
8 become severe.

9           That's a -- I'm glad those lights are going on --  
10          (Laughter.)

11          PRESIDENT CARTER: -- for everyone.

12          FLOOD PROJECT MAINTENANCE BRANCH CHIEF SWANSON:  
13 Thank you.

14          PRESIDENT CARTER: And, RoseMarie, you might want  
15 to maybe renew your efforts in trying to keep abreast of  
16 what's going on with that particular forum.

17          Okay. Very good.

18          Ms. Kirk, did you have a question for Mr.  
19 Swanson?

20          MS. KIRK: Do you want me to come up there?

21          PRESIDENT CARTER: Yes, please, and introduce  
22 yourself.

23          MS. KIRK: Okay. Lisa Kirk, Bethel Island. And  
24 my question is for Mr. Swanson.

25          When you're talking about inspections, are you

1 talking nonproject levees, since we have 700 miles of  
2 nonproject levees, or is he just speaking about project  
3 levees?

4 FLOOD PROJECT MAINTENANCE BRANCH CHIEF SWANSON:

5 Just project levees. Levees that the Reclamation  
6 Board signed the insurance agreements on. We have an  
7 obligation to report back to the Corps of Engineers on  
8 those. And so, yeah, specifically that's what I'm talking  
9 about.

10 MS. KIRK: Have you considered inspections on the  
11 nonproject levees, to see that they're meeting standards?  
12 Because, again, I come from an area where we didn't meet  
13 the basic Amendment 5 since like 1998 -- 1986. And we  
14 just recently met that. So it's over 25 years the  
15 district didn't meet the basic FEMA requirements. And  
16 I've always been curious on, you know, you were receiving  
17 subvention monies but not meeting any standards. And with  
18 700 miles of nonproject levees, is there anything you can  
19 attach that subvention monies where you can inspect those  
20 levees and to what standards they're achieving?

21 Thank you.

22 FLOOD PROJECT MAINTENANCE BRANCH CHIEF SWANSON:

23 I'm not sure I'm the proper person to answer that  
24 question. I could, you know, steer you to Dave Mraz. And  
25 I'm sure that you know Dave.

1 MS. KIRK: Right.

2 FLOOD PROJECT MAINTENANCE BRANCH CHIEF SWANSON:

3 You know, I think ultimately it gets down to a  
4 legal question as to, you know, what the Department's  
5 responsibility is on that. And, you know, if we have a  
6 responsibility that we're not meeting it, then, you know,  
7 I'd say point it out. But I would imagine that our  
8 programs are pretty well tailored around to what our legal  
9 obligations are. And we're probably not going to extend  
10 out beyond that unless we get, you know, some kind of  
11 mandate from the Legislature.

12 MS. KIRK: Thank you.

13 PRESIDENT CARTER: Very good.

14 Thank you very much, Mr. Swanson.

15 On to Item 7, State of Emergency Board Actions.

16 Mr. Punia.

17 GENERAL MANAGER PUNIA: Jay Punia, General  
18 Manager of the State Reclamation Board.

19 This report is to highlight and brief the Board  
20 on the action taken by the Reclamation Board staff in  
21 response to the emergency declared by the Governor.

22 Brannan-Andrus Levee Maintenance District work  
23 document. The Reclamation Board staff signed the work  
24 document for a total of up to \$25 million.

25 With this money the district will repair the

1 damage sites -- 30 Order 1 damage sites. And that will  
2 include the planning, design, permitting, and  
3 implementation of the construction work necessary to  
4 repair these damage sites. So that work document was  
5 signed by the staff on behalf of the Reclamation Board.

6           On the Sacramento River Bank Protection Project,  
7 the Corps has asked that the Department -- the state  
8 should advance \$30 million of the nonsponsored cost share  
9 of that project. And DWR and the Reclamation Board staff  
10 is working to transfer that funding to the U.S. Army Corps  
11 of Engineers as soon as possible. It hasn't happened yet.

12           Real estate certifications. As you may recall,  
13 that we have certified to the Corps that we have acquired  
14 the land easement and right of way to do the construction  
15 under Public Law 84-99 and under Sac Bank. DWR and the  
16 Rec Board staff have certified eight additional sites to  
17 be repaired under PL 84-99. And all of these sites are  
18 along the Sacramento River.

19           DWR and Reclamation Board staff is also working  
20 to certify 14 sites to be repaired under the Sac Bank.  
21 And that hasn't happened yet. But staff is working  
22 aggressively to have those certifications as soon as  
23 possible to the U.S. Army Corps of Engineers so that the  
24 work can commence soon.

25           That's the entirety of the report. And I'll be

1 glad to answer any questions from the Board members.

2 PRESIDENT CARTER: Any questions for Mr. Punia?

3 Thank you.

4 Okay. At this point, we'll move on to Item 8,  
5 Three Rivers Levee Improvement Authority Monthly Report.

6 Mr. Brunner.

7 (Thereupon an overhead presentation was  
8 Presented as follows.)

9 MR. BRUNNER: Good morning, President Carter and  
10 members of the Board. I'm Paul Brunner, the Executive  
11 Director of the Three Rivers Levee Improvement Authority.  
12 I'm here today to give you my monthly update of our  
13 program and status of our project.

14 I'm going to walk through the four phases, as I  
15 typically do, and show you the progress that we have.

16 This is a map that shows the levees that we're  
17 improving on the Yuba River here, Western Pacific  
18 Interceptor Canal here, the Bear River, and then also  
19 along the Feather.

20 The work on Phase 2, which is this area up right  
21 through here on the Yuba and Western Pacific Interceptor  
22 Canal, a little bit on the Bear, is essentially complete.  
23 There's just a little bit of work that's going on still.

24 On the Yuba River here, there's a seepage berm  
25 where we're putting on some topsoil and a cobble along the



1 toe of the seepage berm. Essentially it's ready to go.

2 The pump station down here on the Western Pacific  
3 Interceptor and the Bear right down through here, pump  
4 station 6 is completed. It's ready to handle the inland  
5 flow water. That was one of the last remaining things to  
6 be done on that project.

7 The rock that's along the Western Pacific  
8 Interceptor Canal here is now done.

9 And so those levees are ready to move forward for  
10 the flood season. That's --

11 SECRETARY DOHERTY: I had a question for you, if  
12 you don't mind, on the Western Interceptor Canal. I asked  
13 you last month if by raising the west side were you going  
14 to exceed your flood level that you were allowed to the  
15 east of you.

16 Do you remember we talked about that?

17 MR. BRUNNER: The last meeting I was not here.

18 SECRETARY DOHERTY: Oh, you're right.

19 MR. BRUNNER: But Ric Reinhardt on the  
20 hydraulics -- is Ric here?

21 Ric stepped out.

22 My recollection of the discussion that we had at  
23 the prior meeting before then was that the overall benefit  
24 that we had on the Bear River setback and moving was a net  
25 benefit to the community in that area. And when Ric comes

1 back in, I'll ask him to come forward.

2 MR. COUNTRYMAN: I can address that.

3 MR. BRUNNER: You can? Okay.

4 MR. COUNTRYMAN: As part of the project, the  
5 setback at the Bear River levee improved the efficiency of  
6 the Bear River and, in effect, reduces the storage behind  
7 the Western Pacific Interceptor Canal. So for the sake --

8 SECRETARY DOHERTY: So in other words, it won't  
9 rise above its 50-foot elevation as it floods out over the  
10 land, which is where your flood right of way was? Was the  
11 250 feet?

12 MR. COUNTRYMAN: I'm not exactly sure on the  
13 exact elevation for the 200-year flood at that location.

14 MR. REINHARDT: I apologize.

15 You asked what the hydraulic impact was on Ms.  
16 Hopkins' property?

17 SECRETARY DOHERTY: Yes.

18 MR. REINHARDT: With the construction of the  
19 Three Rivers project, the Bear River setback levee results  
20 in a seven-tenths of a foot reduction in the 200-year  
21 water surface elevation length of the Western Pacific  
22 Interceptor Canal specifically where Ms. Hopkins' property  
23 is.

24 SECRETARY DOHERTY: Okay. That's what I wanted  
25 to know.

1           Thank you, Ric.

2           PRESIDENT CARTER:   Steve, did you want to  
3   make -- Thank you.

4           Please proceed.

5           MR. BRUNNER:   Okay.   On the construction of the  
6   Phase 3, which is the Bear River setback, that work is  
7   done.   There's a few cleanup issues going on on the site.  
8   But it's a beautiful levee.   It's in place and ready for  
9   flood protection.

10          We do have planting that was occurring from River  
11   Partners in that restoration area.   This season's planting  
12   is done.   We'll do some more planting next spring.   But  
13   that's also making good progress too.

14          On the Phase 4, Yuba River, up here.   That we  
15   completed this just this last construction season at a  
16   rapid pace.   That slurry wall did go in.   We did raise the  
17   levee up to the 1957 profile.   We opted to put rock on the  
18   levee.

19          We did ask the question last time about raising  
20   it to three inches -- three inches.   We did some other  
21   hydraulic analysis.   And we are still waiting for the  
22   response back as to how do we raise it and what is the  
23   response back to our hydraulic analysis that we turned in.

24          So I would ask the Reclamation Board, what is the  
25   status of the hydraulic analysis?   And will we be getting

1 a response back and the timing of that? I know for us the  
2 construction of raising the levee is now delayed till next  
3 spring when we have the next construction season. But we  
4 would like to have a response that comes back.

5 BOARD MEMBER RIE: Can staff respond to that?

6 CHIEF ENGINEER BRADLEY: When they weren't going  
7 to raise -- Steve Bradley, Chief Engineer of the Board.  
8 When they decided not to proceed with the raising, I have  
9 been working on other things. If they want a response,  
10 I'll get it to them before the spring some time.

11 BOARD MEMBER RIE: When do you anticipate that  
12 permit will come back before the Board?

13 CHIEF ENGINEER BRADLEY: Whenever the applicant  
14 asks, I presume.

15 MR. BRUNNER: Well --

16 CHIEF ENGINEER BRADLEY: The permit's been  
17 issued.

18 BOARD MEMBER RIE: To raise the levee three  
19 inches?

20 CHIEF ENGINEER BRADLEY: That permit has been  
21 issued. It was issued without that ability to do that.

22 SECRETARY DOHERTY: It's been -- I'm sorry, I  
23 didn't hear you. It's been issued what?

24 CHIEF ENGINEER BRADLEY: Without the ability to  
25 raise the levee.

1 SECRETARY DOHERTY: Oh, I see what you're saying.

2 PRESIDENT CARTER: Mr. Punia.

3 GENERAL MANAGER PUNIA: This is a global issue,  
4 the hydraulic mitigation, and we are working on it. We  
5 have hired a consultant. He's getting input from various  
6 individuals. And he's planning to have his report done by  
7 the end of February. And we are planning to have two  
8 public workshops also on this issue so that we can further  
9 get input from outside the Department and Reclamation  
10 Board staff.

11 On the -- our legal staff and DWR legal staff is  
12 working on the legal side of this issue also. So we are  
13 hoping that the options for hydraulic mitigation and the  
14 legal opinion will be available the early part of 2007.  
15 So then we will be able to handle those type of permits  
16 and give -- staff a recommendation to the Board.

17 PRESIDENT CARTER: And do we have an idea of when  
18 we're going to be -- when that's going to be ready to come  
19 back before the Board?

20 GENERAL MANAGER PUNIA: My goal is to bring you  
21 an engineering report by end of February to the Board.  
22 And maybe Scott can elaborate on the legal side, where we  
23 are on the legal analysis.

24 STAFF COUNSEL MORGAN: Scott Morgan, Board  
25 Counsel.

1           The Legal Office has been asked by the Department  
2 to take a look at this issue, because in the Bond Act 1E  
3 it talks about the Department having the ability to  
4 increase flood protection to protect urban areas. And  
5 this raises the same specter of hydraulic impacts that  
6 Three Rivers' application did, only on a much bigger  
7 scale.

8           So the Department definitely wants to have an  
9 answer to the question of: What are the implications of  
10 doing this? We need to have some idea from the engineers  
11 what this is, what the impacts are or will be or could  
12 conceivably be.

13           We can advise in something of a vacuum, speaking  
14 in broad generalities. But it's much better to have some  
15 specific concrete examples on the table so work from.  
16 We're focusing primarily not on the sort of liability you  
17 had for Paterno. Everyone seems to think automatically,  
18 because that was such a huge judgment and has really  
19 affected how we look at things, that this is a Paterno  
20 liability issue, and really it's not, although there are  
21 Paterno issues that can come into play.

22           That was a case that involved the failure of a  
23 levee and liability for damages that resulted from that  
24 failure.

25           What we're looking at here are changes to the

1 existing plan of flood control that's been in existence  
2 for decades and people have come to rely on it, for better  
3 or worse. And if you start tinkering with it and if you  
4 impose greater flows on people that have not historically  
5 experienced them, what might be the legal consequences.

6 And there could be "takings" issues where you're  
7 actually taking people's property. We want to be able to  
8 address that.

9 The more we know about what the plans are, the  
10 more specific advice we can give. But -- I'm trying to  
11 think of a good way to describe the state of the law of  
12 eminent domain and inverse condemnation. It is murky at  
13 best. I mean it's really not clear and there are  
14 different rules for different sort of projects. Flood is  
15 treated differently than fire, for instance.

16 So, you know, we have to work very carefully. We  
17 want to give the best advice we can. But we've also been  
18 asked to come up with some recommendations in the early  
19 part of 2007.

20 PRESIDENT CARTER: Okay.

21 BOARD MEMBER RIE: Mr. Morgan, the applicant,  
22 Three Rivers, has a permit. The permit said they can't  
23 raise their levee above the '57 profile. And they have  
24 now put in a new application -- correct me any time if I'm  
25 wrong -- to raise this levee by three inches to provide

1 the 200-year protection.

2 Now, we heard that permit back in October and  
3 then we continued it until such time as the staff had  
4 adequate time to review the hydraulics. Now, Water Code  
5 8713 allows them to raise their levee without any  
6 conditions or restrictions. They just can't have any  
7 adverse impacts.

8 So are we going to have a due process issue if  
9 we're delaying this, not reviewing their permit? I mean  
10 we have six months to either deny or approve a permit. So  
11 I don't know how far in the process we are, if we're at  
12 six months or if we have a few more months. But I'm  
13 concerned that -- there's nothing in the Water Code that  
14 says you can't raise your levee above the '57 profile, and  
15 yet the Water Code specifically provides that they can  
16 raise their levees. So what about the due process here?

17 STAFF COUNSEL MORGAN: I don't think that's an  
18 issue. I don't think we have to worry about that at this  
19 stage. We don't really have enough information on the  
20 project. The staff has not been able to review it. I  
21 don't know, do we have an application pending on this  
22 project?

23 CHIEF ENGINEER BRADLEY: We do not have an  
24 application. There was a permit, it had a condition that  
25 said they could not raise here levees. And they asked for



1 a variance to that condition. But they have a permit.

2 There's no other application.

3 PRESIDENT CARTER: So what we'll do is, I  
4 think -- it looks like we're on a schedule of early 2007  
5 to have our staff complete their analysis both from a  
6 technical and a legal perspective. And we'll plan on  
7 agendizing that for early 2007, February perhaps, or  
8 March.

9 MR. BRUNNER: President Carter, there is a -- I  
10 would ask you also to review the motion that was taken  
11 when we raised the issue. It was to go back and to review  
12 our analysis and bring it forth in a few months, or some  
13 timeframe, to provide us an answer. We do have  
14 construction bids and things that we need to put in place  
15 to move forward on it and get the money ready. So we feel  
16 as though it's a timely issue for us to move forward on it  
17 on the project.

18 So I'd ask you to do that and to respond. The  
19 policy issue will take a long time to work through.

20 PRESIDENT CARTER: Right. I understand.

21 MR. REINHARDT: Ric Reinhardt, Three Rivers  
22 Program Manager. If I could have a clarification on the  
23 application. We submitted that application in June of  
24 2006 I believe. And as Mr. Bradley stated, it was to  
25 raise the levee to a 200-year water surface plus three

1 feet. Staff issued the permit without granting that  
2 request. We asked that it be brought before the Board.  
3 And it was brought before the Board in October. And so  
4 there is a standing order request.

5 And I do believe there is a due process issue  
6 where we've made a request and the Board has not acted on  
7 that request. My understanding is at the October Board  
8 meeting Mr. Hodgkins made a motion that originally would  
9 have allowed staff to go back and develop this policy and  
10 then bring this action back before the Board once that  
11 policy was developed. And this Board voted that motion  
12 down and adopted a motion where they directed staff to  
13 review this application in isolation in the near future,  
14 then bring it back before the Board with a specific  
15 direction.

16 VICE-PRESIDENT HODGKINS: That's correct.

17 PRESIDENT CARTER: The issue was tabled.

18 VICE-PRESIDENT HODGKINS: If you look at the  
19 meeting minutes, Mr. Reinhardt has correctly stated what  
20 the meeting minutes reflect.

21 BOARD MEMBER RIE: We have the minutes here.

22 PRESIDENT CARTER: Right.

23 STAFF COUNSEL MORGAN: I don't think there's any  
24 dispute that the idea is for the staff to come back with  
25 recommendations, both legal and technical. And we

1 certainly -- we just don't have any recommendations yet,  
2 at least not yet. We don't have an engineering analysis  
3 that we can look at to develop a legal strategy. And  
4 until we can do that, we can't provide -- I don't know  
5 what time Steve Bradley has to review this and to work on  
6 this. But I don't think that necessarily his  
7 ability -- his availability coincides with Three Rivers'  
8 schedule. And that may be unfortunate, but that -- it may  
9 just be unfortunate.

10           The Board has to review these things carefully.  
11 This is one of many potential changes. And we've heard  
12 about all the projects that are going to be worked on  
13 under the Bond Act. And a lot of them, as you probably  
14 know, are going to be coming back to the Board for their  
15 consideration and approval. Now, a lot of those are going  
16 to involve changing the plan of flood control. And it's  
17 going to be a significant issue for the state. So this  
18 project, River Partners similarly, up in Butte -- in  
19 Glenn -- is it Glenn County?

20           SECRETARY DOHERTY: Glenn.

21           STAFF COUNSEL MORGAN: Yeah. River Islands had  
22 originally proposed changes that would have raised the  
23 levees. And these individual projects may not seem like  
24 much, but they add up. And now you have a lot of projects  
25 like this being funded by the Bond Act, conceivably

1 significant impact. So the Board has to look at it  
2 carefully. I don't see a problem with the Board staff  
3 doing what the Board said, which is reviewing these issues  
4 and bringing it back for Board review.

5 The alternative I think was that at the previous  
6 meeting to simply deny the permit because there was no  
7 legal or technical analysis. And it was brought rather  
8 prematurely by the applicant.

9 PRESIDENT CARTER: So, Mr. Brunner, I have a  
10 question. Is February too late for you?

11 MR. BRUNNER: For the review of our project, I  
12 don't -- for an answer? February would work. It would be  
13 better to be sooner.

14 PRESIDENT CARTER: Is that doable for staff?

15 CHIEF ENGINEER BRADLEY: I tend to doubt that, if  
16 we don't have our report from the consultant until that  
17 time.

18 STAFF COUNSEL MORGAN: I don't know how long it  
19 would take to review this one case. And I wouldn't want  
20 to hinge anything on a report of a consultant, because  
21 that's a broader issue dealing with these things generally  
22 as opposed to this application specifically.

23 So the question is: How long will it take staff,  
24 meaning primarily Steve, to review this one issue  
25 specifically; and then for the Legal Office to work with

1 him and provide some sort of input on the legal  
2 implications, if any. And we're not going to assume that  
3 there are significant issues. Just we want to make sure  
4 we cross that bridge.

5 Be aware that SAFCA meanwhile wants a meeting in  
6 January so they can present something and then have this  
7 Board decide on a project that dwarfs Three Rivers or  
8 River Islands in scope. And so Steve's time is going to  
9 be severely impacted.

10 PRESIDENT CARTER: Mr. Punia.

11 GENERAL MANAGER PUNIA: I would recommend to the  
12 Board that if we will be coming back to you in February,  
13 then immediately after February we'll give a top priority  
14 to this project to bring back either March or as soon as  
15 possible once we have this global presentation on this  
16 subject to you by end of February.

17 VICE-PRESIDENT HODGKINS: I do think there's a  
18 couple of issues here that we ought to carefully sort out  
19 here if we can. Okay? In effect, what I'm hearing Scott  
20 say is that staff thinks this should be treated the way  
21 the resolution that I proposed that failed said it would  
22 be treated, that we don't deal with it until we have the  
23 policy. Okay. Now, the Board rejected that approach and  
24 said, "We want you to bring it back." Mr. Bradley I think  
25 is saying there's no application.

1           Is that correct, Steve?

2           CHIEF ENGINEER BRADLEY: There is no application.  
3 They have a permit and they have a request for a variance  
4 to that permit. That is still I believe active before the  
5 Board, the request for a variance.

6           VICE-PRESIDENT HODGKINS: Okay. So before you  
7 could do anything you're expecting them to submit more  
8 technical work?

9           CHIEF ENGINEER BRADLEY: I have not asked for  
10 that. I think what I said is I couldn't give you in my  
11 opinion what the impacts of their action were. I couldn't  
12 define those.

13          VICE-PRESIDENT HODGKINS: What does that mean?

14          CHIEF ENGINEER BRADLEY: My job is to tell you if  
15 this has an impact on the system. I said I could not do  
16 that at the moment.

17          VICE-PRESIDENT HODGKINS: So even though the  
18 Board adopted a resolution that said bring it back, you in  
19 effect are saying that from your viewpoint there was  
20 nothing you could do because you didn't have the  
21 information or the ability to analyze this for hydraulic  
22 impacts?

23          CHIEF ENGINEER BRADLEY: That's correct.

24          VICE-PRESIDENT HODGKINS: Okay. Well, I think  
25 the --

1 CHIEF ENGINEER BRADLEY: There was no  
2 indication --

3 VICE-PRESIDENT HODGKINS: I think the point I'm  
4 really trying to make here to the rest of the Board is the  
5 Board said bring it back, staff in effect was saying, "We  
6 can't deal with this," and we went on our merry way  
7 assuming it was going to come back. And I think, Mr.  
8 Punia, you're going to have to be careful about those  
9 kinds of things, okay.

10 But from the applicant's standpoint, there was  
11 also a proposal that would have raised a portion of the  
12 levee and left a portion of it lower. Is that the  
13 proposal that you're asking us to consider or is it the  
14 prior proposal?

15 MR. BRUNNER: At this time we're really just  
16 asking for the prior proposal. We have completed that  
17 portion of the levee, put rock on it. We have plans in  
18 the future then to overall raise the Yuba up so that it  
19 meets the 200-year even at the downstream portion  
20 potentially. We'd like to include them together at the  
21 same time, when we do the construction at that time.

22 There is an alternative -- I would -- if the  
23 staff and Rec Board cannot make the review, potentially  
24 another agency may be able to support, such as the Corps  
25 may be able to do that review on behalf of the Rec Board

1 and make it more timely.

2 VICE-PRESIDENT HODGKINS: I guess I'm going to  
3 turn to Mr. Punia and say: We have a Board action here  
4 that says bring it back. We have staff in essence saying  
5 they aren't able to produce any analysis to bring it back.  
6 Can you tell us where we are?

7 GENERAL MANAGER PUNIA: I think my approach is  
8 that we hired this consultant. He's giving -- his  
9 document is going to give more technical information to  
10 Steve to analyze these type of projects so that Steve can  
11 bring these projects as soon as possible. So I cannot  
12 commit that whether we can bring it along with that report  
13 in February. But immediately after that I think we will  
14 bring this project back to the Board for your  
15 consideration.

16 VICE-PRESIDENT HODGKINS: Okay. Here's my  
17 thought for the Board and for Mr. Punia. When we take an  
18 action and in effect staff doesn't see any way to do that,  
19 you need to tell us when we're taking the action and not  
20 let it just go out. This is my opinion. I don't know how  
21 the rest of the Board feels. But, in effect, what we have  
22 here is the Board took an action and, in essence, to be  
23 blunt, staff is in effect acting like the resolution that  
24 I proposed is a resolution that was approved. And I think  
25 it's important for the integrity of the Board and for the



1 way the rest of the world views us not to let an action  
2 end that way. If you can't bring it back, you've got to  
3 stand up and say that and help the Board arrive at some  
4 kind of resolution one way or the other so we don't end up  
5 in a situation where the applicant's saying, "I have an  
6 application in," and staff is saying, "No you don't," and  
7 there's no communication going on.

8 Does that make sense to anybody?

9 STAFF COUNSEL MORGAN: If I could add something  
10 else.

11 I do think there's a possibility that since the  
12 last meeting or the meeting whenever this was discussed --  
13 and Jay Punia has been organizing this effort with a  
14 consultant to look at hydraulic impacts generally -- the  
15 staff may have misunderstood the Board's motion to be your  
16 motion instead of what the Board's motion actually is.  
17 But I think it's very clear that this project stands  
18 alone. And so with or without a general analysis by the  
19 consultant and general report, we still need to look at  
20 this. And I don't think I heard Steve say that he  
21 couldn't have this project specifically and individually  
22 evaluated. He hasn't -- he has not yet. And what I don't  
23 know is what his timeframe is to be able to do that.  
24 Because until he does it, there's not much that I can  
25 offer.

1           BOARD MEMBER RIE: Mr. Bradley, does Three Rivers  
2 need to submit a new application? Or is their request for  
3 a variance, is that considered their application? What do  
4 you mean?

5           CHIEF ENGINEER BRADLEY: We're not talking about  
6 an application. They have a permit. And as a condition  
7 they've asked for a variance to that condition.

8           BOARD MEMBER RIE: Okay. What do you need in  
9 order for us to review this variance? What do you need  
10 from them to get started?

11          CHIEF ENGINEER BRADLEY: I need to tell them what  
12 they need to do hydraulically. And I'm kind of uncertain  
13 as to what I need to ask for. I explained this at the  
14 previous meeting. When the Board did not take an action,  
15 they just said bring it back, they did not say when. I  
16 assumed it was when we had some way to evaluate that. And  
17 it wasn't the next meeting, it wasn't two meetings. It  
18 was not specified. And I explained that I did not know  
19 exactly how the impacts should be evaluated. And I  
20 assumed that when I had some way to understand that, it  
21 would be brought back.

22          This is a huge question that Scott pointed out.  
23 We have developments up and down the valley now coming  
24 forward to raise levees. There's also the bond money.  
25 DWR's going to be very interested in doing this. We have

1 the SAFCA application in now to do this. We have not  
2 coordinated -- SAFCA has not talked to anybody at the Rec  
3 Board on this huge application that has come before us in  
4 the last couple of weeks. These are big questions.

5 BOARD MEMBER RIE: Yeah, I understand that  
6 they're big questions. And I'm not so sure that we can  
7 wait for a policy on 200-year flood protection, because  
8 the Water Code is clear. You can raise a levee as long as  
9 you don't have hydraulic impacts. However, if we want to  
10 start rewriting the Water Code and coming up with new  
11 policies, we have to be very careful that we're consistent  
12 with the Water Code. And I don't know if we can do that  
13 in time for our six months that we typically give for the  
14 review of permits.

15 CHIEF ENGINEER BRADLEY: This is not an  
16 application. You have a permit. I don't know -- the six  
17 months applies to a request for variance. It is not an  
18 application.

19 PRESIDENT CARTER: Let me suggest a recess right  
20 now. Let's take a ten-minute recess, allow people to  
21 stretch, and we will continue -- we will reconvene on this  
22 item in ten minutes.

23 Thank you.

24 (Thereupon a recess was taken.)

25 PRESIDENT CARTER: Okay. Ladies and gentlemen,

1 if we can go ahead and come back into session.

2 We are on Item 8, Three Rivers Levee Improvement  
3 Authority. We have been discussing the dilemma we have  
4 with regard to some analysis and a request on a variance  
5 on a permit that the Reclamation Board has issued.

6 And I think Mr. Punia has a suggestion to try and  
7 get us off top dead center.

8 GENERAL MANAGER PUNIA: I think my recommendation  
9 to the Board is that we will come in the February Board  
10 meeting and give you the report on the global policy where  
11 we are. And then in March we will come back and we'll  
12 give you the recommendation on this specific project.

13 PRESIDENT CARTER: So you're going to work in  
14 parallel doing the technical analysis; the hydraulic  
15 analysis; and when you determine if there are impacts,  
16 what they are; you're going to pass that on to Legal staff  
17 and they are going to assess the legal implications of  
18 that technical analysis, and that data will be before the  
19 Board for March?

20 GENERAL MANAGER PUNIA: That's correct. Then the  
21 Board can decide based upon that information what decision  
22 they deem appropriate.

23 PRESIDENT CARTER: So how does that sit with the  
24 Board?

25 VICE-PRESIDENT HODGKINS: Just a couple of -- for

1 clarifications. I think this means that Steve's going to  
2 work with the applicant and the applicant's going to work  
3 with Steve. You're going to tell them what you want in  
4 the way of additional analysis. And you guys are going to  
5 provide it and not say, "No, you don't need that" or  
6 anything like that. If he asks for it, give it to him.

7 MR. BRUNNER: We will work with him. And we'll  
8 provide the information.

9 PRESIDENT CARTER: All right.

10 VICE-PRESIDENT HODGKINS: Steve, is that okay  
11 with you?

12 CHIEF ENGINEER BRADLEY: Yeah, that's the way it  
13 works. We don't do the analysis. All I do would be  
14 review it and approve it. If they haven't done what I've  
15 asked, then it wouldn't be approved.

16 VICE-PRESIDENT HODGKINS: Okay.

17 BOARD MEMBER BURROUGHS: That's agreeable.

18 PRESIDENT CARTER: All right. So that's where  
19 we'll head with this particular issue. Okay?

20 MR. BRUNNER: Thank you.

21 Moving to a very positive note is the -- today  
22 Three Rivers did send in a certification package to the  
23 Corps for the levee system that we were just talking  
24 about: The Yuba through here, the Western Pacific  
25 Interceptor there, and a small portion of the Feather up

1 here that didn't really need any improvements.

2 The Corps is favorably inclined to work with us.

3 And we're hopeful that we'll receive certification of  
4 those levees in the January time period.

5 I want to move to Phase 4 of the Feather. And  
6 I'll give you a quick update on that. The feather is  
7 broken into three different segments: Segment 1 from the  
8 Bear to right here; and then up through here, segment 2,  
9 that's where we're considering the alternative for the  
10 Feather River setback; and then the third segment's up  
11 here.

12 Segments 1 and 3 are nearing completion and  
13 design. That's where they're strength in place. We  
14 expect to go to construction this construction season in  
15 2007. That's good news.

16 On segment 2, we have an alternatives analysis --  
17 that's right here, segment 2 -- coming out December 22nd,  
18 gives us the cost differences between the setback and the  
19 strength in place option.

20 We did complete an EIR awhile back I reported to  
21 you. We have not yet certified that EIR. And we have not  
22 yet selected a remedy. On the way to selection and  
23 certifying the EIR we had a significant event election  
24 occurred and Prop 1E passed. And we are trying to figure  
25 out and working with state officials and that whether or

1 not if the setback is viable working within Prop 1E  
2 funding.

3 So with that, we do not believe that we will  
4 certifying and selecting a remedy until probably the  
5 January time period and work with the officials to see  
6 what's viable on that.

7 Moving from Phase -- Feather Phase 4, I'm going  
8 to show you my little chart here on building permits.

9 --o0o--

10 MR. BRUNNER: We show this each time. And it  
11 shows the progress of our program being underwritten by  
12 development funds as to where we are. And in this  
13 particular slide this is where in 2005 we had this amount  
14 of permits that we could issue. And this was under the  
15 first agreement. And today's agreement is that there are  
16 no limitations as long as we're making progress towards  
17 the levees, which we're doing. And then in 2006 we have  
18 another 700 permits that we could issue. And you can see  
19 from here that the line is still below the first agreement  
20 amount of those 700 permits for 2006. So there's not a  
21 lot of building that's going on in the Plumas Lake area  
22 and the Arboga area.

23 And that completes my report.

24 PRESIDENT CARTER: Any questions for Mr. Brunner?

25 VICE-PRESIDENT HODGKINS: Yes, I have one.

1           As a result of our lifting the permit  
2 requirements there was an agreement on the project  
3 schedule. And now we have the possibility of a setback,  
4 which is going to take I guess some time for DWR to figure  
5 out and you to figure out if that's viable. Is that  
6 affecting the schedule?

7           MR. BRUNNER: At this time we are very hopeful  
8 that it will not. We have aggressively tried to prepare  
9 our schedule for the setback that make it viable for the  
10 2008 time period to accomplish it in that timeframe.

11          VICE-PRESIDENT HODGKINS: Okay.

12          MR. BRUNNER: If it changes, we know that we need  
13 to return to have that discussion.

14          VICE-PRESIDENT HODGKINS: Great. Thank you.

15          BOARD MEMBER BURROUGHS: I have a question for  
16 staff.

17          Did the concerns of Rex Archer, those letters,  
18 get forwarded to the Corps since they're the ones that  
19 approved?

20          GENERAL MANAGER PUNIA: No, we haven't forwarded  
21 these to the Corps yet. But we are planning to.

22          BOARD MEMBER BURROUGHS: Thank you.

23          PRESIDENT CARTER: Any other questions?

24          Okay. A couple of people wanting to comment on  
25 this item.



1           Mr. Foley.

2           If we could keep our comments please to about  
3 five minutes.

4           MR. FOLEY: Thank you, Board. Tom Foley, Yuba  
5 City.

6           Just noticing this discussion -- the discussion  
7 just had over the created levee. That discussion is what  
8 the Reclamation Board's all about, the Reclamation Board  
9 was established -- why the Reclamation Board was  
10 established, why the Reclamation Board must have its  
11 powers to protect the flood control system and thereby the  
12 public.

13          Very likely Three Rivers is trying to gain a  
14 higher level of flood protection for RD-784 at someone  
15 else's expense. And that's what the Rec -- that's why we  
16 have this Rec Board. Without the Rec Board that's what  
17 they would be doing, be proceeding with.

18          We had that early in the century and that's a  
19 mess. That seemed very reasonable to Three Rivers to --  
20 how reasonable it is to raise three inches so long as  
21 they're benefiting from it. It would not seem so  
22 reasonable to whoever has to -- there's another party on  
23 the other side that takes the water.

24          But that wasn't part of what I was going to  
25 speak, but then I couldn't not say that.

1           The Rec Board imposed restrictions on Three  
2 Rivers and developers. The restrictions compelled Three  
3 Rivers to get serious. Their attorneys, Scott Shapiro --  
4 I was at all the meetings -- said complying with the Rec  
5 Board was like a gun held to his head. That is the way  
6 those flood control agencies -- they have to be held at  
7 gun point to get serious about public safety.

8           The developers have tremendous influence at the  
9 local level. I know that from experience. Really, all  
10 the Rec Board was asking the developers was to contribute  
11 to flood control infrastructure, and not to risk lives  
12 unnecessarily. That is not a different thing from any  
13 public agency asking developers to make an equitable  
14 contribution to infrastructure costs in exchange for  
15 allowing development.

16           Public officials always have to be reminded that  
17 the public owns development rights and developers are not  
18 to get the development rights for nothing.

19           There are 10,000 lots in RD-784. Is it asking  
20 too much for \$25,000 a lot for flood control  
21 infrastructure?

22           Also, it came to my attention there's a program  
23 called the Statewide Community Infrastructure Program,  
24 SCIP. That program could possibly be used to fund the  
25 levee cost without putting more lives at risk.

1           What does it say the Rec Board could do more with  
2 its authority that isn't that controversial? Why wouldn't  
3 The public have a reason to -- on the Board's using its  
4 power to protect the public? My I wrong as a member of  
5 the public to ask the Board for more?

6           To a development corporation infrastructure costs  
7 such as levees and roads are just that, a cost to be  
8 avoided if possible. When dealing with developers, every  
9 public agent should keep in mind that developers may own  
10 the land but the public owns the right to develop it. If  
11 we had that system, life wouldn't be bearable because the  
12 public couldn't control development. There's a reason for  
13 it.

14           As agents for the public, every public agency  
15 involved should be getting the best deal for the public.  
16 And if the public is not getting a good deal, say no. If  
17 a local agency will not say no, then the public goes  
18 through a stage to say no.

19           We are asking -- I don't know how to go about it,  
20 but I hope brings attention. We are asking to be placed  
21 on January's agenda if it's possible to request from the  
22 Rec Board -- I don't know exactly how to do it -- to  
23 request why Three Rivers -- why the levee repairs cannot  
24 be completed in 2007. And also why you need new levee and  
25 not construct to 500-year standards. That's what the Rec

1 Board has the authority -- they have this authority to  
2 use.

3           There were boils along the Feather River last  
4 winter in that area, 784. That is a danger signal. The  
5 boils lead to levee failure. The local agencies with the  
6 problem downplay the risk to keep developers happy. This  
7 Board has tremendous responsibility. It will be  
8 controversial if you are more aggressive. But it might  
9 come very soon also very controversial why you're not  
10 doing more.

11           Thank you.

12           PRESIDENT CARTER: Any questions for Mr. Foley?

13           Thank you.

14           Mr. Archer.

15           MR. ARCHER: Mr. President, Honorable Board  
16 Members. Thank you for permitting me to speak today  
17 regarding the south bank of the Yuba River. By way of  
18 background, I am Rex Archer and I have lived in Linda,  
19 RD-784, since 1958. I have served as president of RD-784  
20 for seven years, from 1989 to 1996. I have been president  
21 of two small California corporations, vice president of  
22 another. I was associated with the Yuba County Sheriff's  
23 Department for over 20 years and served in the U.S. Navy  
24 Seabees overseas.

25           In 1986, my home and business was flooded. I am

1 well experienced and knowledgeable in RD-784 levees after  
2 supervising high water flood fights the winter of '95 and  
3 '96 and numerous hands-on working events with continuing  
4 sand boils, evacuation decisions and citizens safety.

5           Having this knowledge of the history of RD-784  
6 let me see that Three Rivers Levee Improvement Authority  
7 TRLIA officials chose to label the Linda levee at Levee  
8 Mile Marker 0.79 as not viable to be repaired and instead  
9 placed slurry walls from the Highway 70 east to the site  
10 of the break in 2004, ceased work, left and continued work  
11 south of the Yuba on the Bear River TRLIA returned to the  
12 Yuba River in 2006 under an acceleration permit from this  
13 board and placed slurry walls in the center of the east  
14 Linda levee from Simpson Lane Road west to the Union  
15 Pacific Railroad Track (UPRR), and again stopped work.  
16 This of course left the site of the giant boulders  
17 untouched by TRLIA save for a sand berm placed on the land  
18 side. The backside has never been touched since 1986 by  
19 anyone that I know of. I live one mile from that levee.

20           In 2003, Kleinfelder Engineering Firm was hired  
21 by Yuba County to conduct a problem identification report  
22 on the Yuba River left bank from Highway 70 to the Union  
23 Pacific tracks, which includes the area I am speaking on  
24 today. On page 15 of that report under "Rapid Drawdown,"  
25 it states, "It represents the situation where the flood

1 stage level (100-year stage) fully saturates a majority of  
2 the levee embankment, followed by the water surface  
3 falling faster than the soil can drain, which negates any  
4 help from the sand berm on the land side." This is the  
5 backside I'm talking about, the waterside.

6           On page 18 of that report, "The calculated  
7 factors of safety for the rapid drawn down condition" of  
8 the backside of that levee "of 1.0 to 1.1 are less than  
9 the acceptance criterion of 1.1 to 1.3." It makes one  
10 wonder, if the rapid drawdown condition was below  
11 standards in 2003, how much below standards are they now  
12 in 2006 with no work done whatsoever?

13           In essence, TRLIA has done no work at all on the  
14 waterside, on the slopes, under or adjacent to the levee  
15 at Levee Mile Mark 0.79, the site of the '86 event,  
16 despite the spending of millions of dollars in levee  
17 upgrade. In 2006, I discovered a six-inch point of a  
18 giant boulder sticking out of the side of the Linda levee  
19 at the 1986 event site, showing that erosion was at work  
20 on the waterside. Now, this giant boulder, they're bigger  
21 than those desks, some of them. But now they're growing  
22 out of the levee because the levee is going down into the  
23 road and somewhere else.

24           In the year 1986, the Yuba River failed due to  
25 the aforementioned rapid drawdown -- that's what happened

1 to it in '86 -- and the breach was closed by dumping  
2 hundreds of truckloads of riprap or large boulders into  
3 the breach until the scour hole, created by flood waters  
4 crashing through the levee and digging a  
5 several-hundred-foot-long trench, and the levee itself  
6 were closed off. The scour hole is where the water comes  
7 through the levee when it's broke. It digs a deep trench  
8 between 3, 400 feet, whatever size, and they had to fill  
9 that with riprap and the levee until they backed up on --  
10 and then they stopped it. Those boulders, some as large  
11 as small Volkswagens, are still there today.

12 In '95-'96, my engineer at 784 and I saw a large  
13 pool formed about 200 feet out from the levee in the scour  
14 hole and knew the boulders were permit the high water from  
15 the Yuba River to flow under the levee. We reported it to  
16 the State Water Division at that time since we were only a  
17 maintenance district with authority extending out ten  
18 yards from the toe of the levee. The state tried to get  
19 me to accept that, the scour hole. And as president, I  
20 told them no. Because there's no way you can maintain a  
21 scour hole. It stays there forever.

22 I also saw the pool of '96-'97 showing the repair  
23 had failed both times. Both times we had high water since  
24 1986 it failed. The repair that Nordic Industries put  
25 there failed.

1 All right. Both times it received high water and  
2 it remains to be seen if the sand berm that TRLIA put  
3 there can hold the underflow now. I don't know.

4 In 2004, TRLIA Vice Chairman Dan Logue, after  
5 being advised of the Kleinfelder reports findings  
6 regarding the Linda levee said, "The Linda levee is a  
7 seepage issue." In 2006, TRLIA engineer Ric Reinhardt  
8 stated, "The boulders in the Linda levee are not an  
9 issue," while answering a questioning in Plumas Lake to  
10 the citizens there.

11 In April of 2006 TRLIA Executive Director and  
12 Yuba County Administrator Charles K. McClain sent a  
13 letter, April of this year, under the TRLIA heading to the  
14 United States Army Corps of Engineers to the attention of  
15 Colonel Ronald N. Light and, after stating that the Yuba  
16 River left bank was completed and remediation consisted of  
17 construction of a slurry wall through the center of the  
18 levee and a landside seepage berm from the Highway 70 to  
19 the Union Pacific Railroad tracks, requested the Corps of  
20 Engineers to provide a letter to TRLIA stating that the  
21 left bank of the Yuba River south from Highway 70 to the  
22 Union Pacific railroad meets FEMA certification  
23 requirements.

24 After reading the letter, I knew there was no  
25 slurry wall from highway 70 to the Union Pacific Railroad



1 tracks. I knew that. I was president of 784 and I knew  
2 nobody had ever removed them boulders. And I also knew  
3 that that letter was false that they sent. And the reason  
4 I knew it was false is because they said there's a slurry  
5 wall from the E Street Bridge, Highway 70, to the Union  
6 Pacific Railroad tracks. There is a sand berm also,  
7 period. End of story. That was the thing they gave to  
8 Colonel Light.

9           And I knew there was no way a slurry wall could  
10 be in there, because the Corps of Engineers reinforced my  
11 belief that there's no way you can dig through giant  
12 boulders and put slurry walls in there. So I wrote a  
13 letter to Colonel Light.

14           Colonel Light, I said, I think maybe they made a  
15 mistake. And I recently -- it says -- I recently received  
16 a letter back from Colonel Light at the Corps of  
17 Engineers, last Friday, a week ago today, I believe, and  
18 it says there is no slurry wall over those boulders at  
19 Levee Mile Marker 0.79. Now, that Levee Mile Marker 0.79  
20 is the approximate place where it broke in 1986. I was on  
21 that levee in '86. I worked there. I know all about it.

22           So "We shared your concern with the conditions at  
23 this site," Colonel Light says. "Further, your letter has  
24 reminded us that we must carefully examine this area."  
25 Now, I'm excited already because here the colonel is

1 saying we're going to examine something I've been almost  
2 ten years trying to get somebody to look at.

3 And down there they say, "Rex Archer's a mad man.  
4 There's knows boulder." They even say there's no boulders  
5 down there. It's like saying the holocaust didn't happen.  
6 But there are boulders in that levee.

7 "Further, your letter has reminded us we must  
8 carefully examine this area. We focusing our attention  
9 now upon the junction between the cutoff slurry walls and  
10 the seepage berm to ensure we will not have internal  
11 erosion occur at that junction." The draft ends with,  
12 "You have brought out many important considerations for  
13 the well being of the levees along the Yuba River. We  
14 share your concerns about the effectiveness and viability  
15 of the levee improvement's made by TRLIA."

16 And my concerns are on that position, 0.79  
17 there's zero. And that levee -- and I'm going to jump off  
18 here a minute. That levee is at the north end of 784.  
19 Three Rivers and others when they explained about it, they  
20 say, "When we fix this levee it will take care of Linda  
21 and Olivehurst." I've told them and told them when that  
22 levee breaks, as it did in '86, it takes Linda and  
23 Olivehurst, it floods us, it floods me, it goes right on.  
24 But it floods Arboga, Plumas Lake and everybody else down  
25 below there. And it sets down at Plumas Lake for three to

1 six weeks.

2 Mr. Punia told me you were short of time, so I'm  
3 going to cut this short. And those letters, by the way,  
4 are in your packet showing you.

5 But what I wanted to stay on for a minute here  
6 is, when that levee breaks, it goes down and it floods all  
7 those new houses, all those people. I've communicated  
8 with those people and they say, "Mr. Archer, we don't  
9 believe that." The authorities -- Three Rivers says,  
10 "They're 200-year levees now." And I say, "Hey, if the  
11 water is coming through those boulders and coming out, how  
12 can they be, Three Rivers?" The Corps of Engineers -- I  
13 have their word -- is not going to certify that levee for  
14 100, not even 80 years, not -- nothing, because those  
15 boulders are going to permit the water to go through.

16 Now, the worst part of it is, not the boulders  
17 going through, because they have piled sand on it all over  
18 the place, but on the backside -- which nobody looks at  
19 except Rex Archer -- the backside of that levee has  
20 depressions in it where the levee has sloughed off on the  
21 side and made a new road down there. Instead of being on  
22 the side of the bank where it belongs, it's down on the  
23 patrol road down there. Boulders are sticking out of it.

24 Now, when the water gets up against that levee,  
25 80 feet, 75 feet, which it will if we -- every ten years

1 we have an event, 1955, 1964, 1975 -- 76, 1986, '96, '97  
2 and now 2006. It will get up there. And when it sets  
3 there -- because the Oroville Dam will hold its water.  
4 There's farmers and people that says, "Don't let that  
5 water out. We need it next year." I don't want to get  
6 into that fight. But they hold that water. And then  
7 pretty quick -- they called me one year, in '96, and they  
8 said, "Mr. Archer, we have an unprecedented amount of  
9 water coming into the Oroville Dam." And I said, "And?  
10 And they says, "We're going to have to dump it over the  
11 top and you're going to catch a lot of water." And I  
12 says, "Well, what?" And they says, "Well, be prepared."  
13 And I says, "Thanks."

14 And I went around and worried about evacuating  
15 Yuba County. And then I said, "Hold it." And then the  
16 phone rang and they said, "The water went away." But this  
17 time the water may not go away. And the Linda levee has  
18 been saturated two times. Last year was nothing. Last  
19 year the water just barely touched the toe of the levee.  
20 So it didn't test it last year. This year I think it's  
21 going to test it. But nobody has looked at it. But now  
22 the Corps of Engineers says they're going to focus in on  
23 that. Not because TRLIA called them in, but because I  
24 finally called them in.

25 Now I'll answer any questions.

1           PRESIDENT CARTER: Any questions?

2           BOARD MEMBER BURROUGHS: Yes.

3           Thank you for your letters and your sincere  
4 concern.

5           Do you have specific recommendations on resolving  
6 the boulders that are causing the problems for the seepage  
7 on this levee?

8           MR. ARCHER: I do. I ran for supervisor last  
9 June, July to fix this, because Three Rivers has their  
10 head of steam going and they're going to work. So I said  
11 I'm going to run for supervisor and I'll fix it. And I  
12 spoke with two other supervisors. They agreed with me. I  
13 can't tell you what my thing is, but it is highly viable.  
14 And if I get in shortly, I'm going to bring it and I'm  
15 going to fix those boulders, yes. The only way, in a  
16 short nutshell, is remove the boulders and replace the  
17 levee the way it belongs.

18           Now, they felt -- Three Rivers said we could put  
19 sand berms and we could put slurry walls on the outside of  
20 the levee. But you can't on the landside, because, once  
21 again, you have those boulders running like a knife aimed  
22 at Linda.

23           And so, not only can you not dig down through the  
24 levee boulders, you cannot dig through the slurry wall.  
25 So you can't do anything except what Three Rivers does, is

1 put a sand berm there and say, "Look, everybody. You're  
2 safe." That sand berm is for farm use. In the  
3 Mississippi area, someone mentioned earlier, farms put  
4 sand berms up. They're not for human habitation. But the  
5 levees around 784 were never meant for human habitation.

6 I questioned when you guys gave them the permit  
7 to put more houses down there. And I now request that you  
8 revisit that and stop all permits in the flood zone unless  
9 they can certify to yourself, the Board of -- the Corps of  
10 Engineers that the levee is fixed to their standards. Not  
11 to the developer's standards, not to Three Rivers'  
12 standards, but to your Board and the Corps of Engineers'  
13 standards.

14 And the Corps of Engineers has stayed back, other  
15 than give them a couple of engineers to work with them.  
16 But they've stayed back. But now in their letter that you  
17 have there it says, "We are going to focus on that at the  
18 request of Rex Archer," not them.

19 PRESIDENT CARTER: Are there any more questions  
20 of Mr. Archer?

21 MR. ARCHER: So a citizen has spoken.

22 PRESIDENT CARTER: All right. Are there any more  
23 questions for Mr. Archer?

24 SECRETARY DOHERTY: We thank you for your  
25 concern, Mr. Archer.

1           PRESIDENT CARTER: Thank you.

2           MR. ARCHER: Thank you.

3           PRESIDENT CARTER: So with regard to this issue,  
4 clearly there needs to be some follow-up. The staff needs  
5 to verify the facts. Clearly there's a -- there's a  
6 difference in opinion on what the facts are here, so we  
7 need to get to the bottom of it. And I expect staff to  
8 respond to that as part of the Three Rivers monthly report  
9 at our next meeting.

10          BOARD MEMBER BURROUGHS: Is it appropriate -- may  
11 I make a motion to implement stopping any further  
12 development until these issues are cleared up?

13          I move that we stop the development until these  
14 answers are -- these questions that we have before us  
15 today are answered, and pursue the information about false  
16 testimony. This is very serious. And for public safety,  
17 I think we need to stop development until these questions  
18 are answered.

19          PRESIDENT CARTER: Okay.

20          STAFF COUNSEL MORGAN: We're kind of -- no,  
21 there's been nothing on the agenda to revisit the permit  
22 given to Three Rivers at this meeting. We would have to  
23 go back and look at the permit language and see -- there  
24 are -- I know there are some triggers in the permit which,  
25 if certain benchmarks or certain goals have not been

1 achieved, the Board can revisit the housing permit issue.  
2 But we'd have to look and see specifically if those apply.  
3 But none of that is before the Board today.

4 BOARD MEMBER BURROUGHS: Well, then I would  
5 recommend that our legal counsel review the specific  
6 language in the permit. And if those questions haven't  
7 been answered, then do we need to bring it up for next  
8 month?

9 STAFF COUNSEL MORGAN: The soonest you would  
10 consider it would be the next meeting, whenever that is.

11 BOARD MEMBER BURROUGHS: But if they're in  
12 violation now, would that just stop or would it take a  
13 motion?

14 STAFF COUNSEL MORGAN: No, I believe my  
15 understanding of the agreement and the permit is that the  
16 Board -- there are some things that are triggered  
17 automatically. I don't think anything like this falls  
18 within the scope of the automatic triggers. But, again,  
19 we'd have to look at the language in the agreement and the  
20 permit to see if there was something triggered by any of  
21 the allegations stated by Mr. Archer. And we can bring  
22 that to the Board in the next meeting.

23 BOARD MEMBER BURROUGHS: Okay. And then I had  
24 asked earlier if these letters had been forwarded to the  
25 Corps, and I was notified that they would be. I would



1 encourage them to be immediately sent and for an immediate  
2 response, if possible.

3 Thank you.

4 PRESIDENT CARTER: Okay.

5 MR. BRUNNER: May Three Rivers speak?

6 PRESIDENT CARTER: Any other comments from the  
7 Board?

8 VICE-PRESIDENT HODGKINS: I was going to ask -- I  
9 read the letter from the colonel in response here. The  
10 Corps says they're going to look carefully at this issue.  
11 But they also said that the seepage berm was the right  
12 solution.

13 But, Paul, didn't you tell us the Corps's going  
14 to certify these levees shortly?

15 MR. BRUNNER: It's in the reach of which we have  
16 submitted for certification. And they are looking at it.  
17 And they have the information. And they've actually  
18 participated in the design of the system.

19 VICE-PRESIDENT HODGKINS: Right. Do have any  
20 idea what the time -- I mean candidly it seems to me that  
21 the best person to look at this issue is the Corps. So if  
22 they're looking at it and we're going to get an answer  
23 from them, that -- not that looking at the permit doesn't  
24 make a lot of sense to know what our options are. But  
25 that's where we'd get the answer to this. And I'm just

1 wondering if you have any idea when they're going to come  
2 forward with their conclusions.

3 MR. BRUNNER: Well, it's part of our levee system  
4 that we turned in. As I stated earlier, we are hoping  
5 that we get the response back in the January time period  
6 on our levee system.

7 If I could just address a couple other items,  
8 would that -- the accusation of false testimony and what  
9 we have.

10 We always have come before the Board to present  
11 what we have done on that particular levee. And I came  
12 and I actually presented the slurry -- or the seepage berm  
13 back in the July meeting for the Board, if you check your  
14 minutes, and presented the seepage berm and how we're  
15 protecting this particular portion of the levee. We have  
16 not received the Corps letter that we have there. So we  
17 would like to get a copy of that for our review.

18 What I get here in the Corps letter that was  
19 written was a concern about the levee. I would imagine  
20 that the Corps will review the levee work that we have  
21 done that's done by engineering companies that are very  
22 capable, very reputable. They also participated in the  
23 design, as I said earlier, on the levee.

24 It's part of the certification process which  
25 they'll have. And they will then work through the issues

1 that are raised on it. And I don't really see personally  
2 any need for a special action. We have worked on the  
3 levees. We have progressed rapidly on them. And we  
4 believe that's a solid solution for that portion of the  
5 levee.

6 We'll see what the Corps says on the  
7 certification process.

8 PRESIDENT CARTER: Anything else?

9 MR. BRUNNER: No.

10 PRESIDENT CARTER: Okay. Thank you.

11 MR. ARCHER: May I have three more minutes?

12 PRESIDENT CARTER: Mr. Archer, I gave you 15,  
13 which is 10 minutes over our allocation.

14 Is it material today?

15 MR. ARCHER: I did have proof that they violated  
16 your rules. I'm just going to -- I didn't put them up in  
17 the brevity of speed there.

18 PRESIDENT CARTER: Okay.

19 MR. ARCHER: I do have it here though.

20 PRESIDENT CARTER: All right. If you would make  
21 that available to staff --

22 MR. ARCHER: You have it.

23 PRESIDENT CARTER: -- they will follow it up.

24 It's in our packet?

25 MR. ARCHER: It is in your packet.

1           PRESIDENT CARTER:   Okay, very good.   Thank you.

2           At this point we'll move on to Item No. 10A,  
3 Folsom Dam Safety and Flood Damage Reduction Project.

4           Mr. Charney.

5           MR. CHARNEY:   Thank you, Mr. President, members  
6 of the Board, Mr. Punia, ladies and gentlemen.   My name is  
7 Robert Charney.   I am a member of the project development  
8 team with the Division of Flood Management, DWR.   And my  
9 responsibility is as a project manager for the suite of  
10 projects that are underway at Folsom Dam, what we're  
11 titling the "Folsom Dam Safety and Flood Damage Reduction  
12 Project."

13           The typical flood damage reduction project that's  
14 cost shared by the Board and the Army Corps and SAFCA, the  
15 Reclamation Board will provide a letter of intent to the  
16 Corps indicating the Board's support for the work that was  
17 underway.

18           The project before you at Folsom Dam is in no  
19 ways typical, in the sense that it's very large compared  
20 to some of the other projects before you.   It involves two  
21 federal agencies, the Bureau of Reclamation and the Army  
22 Corps of Engineers.   And a whole series of studies have  
23 been underway for many years, none of which we can label a  
24 feasibility study.   Nonetheless we believe that we have  
25 progressed in many ways beyond the feasibility stage.   So

1 we're here today to ask the Board to consider a letter of  
2 intent to the Corps at the Corps' request to support the  
3 work that's been done to date.

4           You may recall in June Colonel Light came before  
5 the Board to provide a fairly lengthy presentation on the  
6 progress that we had made to date. Also at that meeting  
7 we had Mike Finnegan, the General -- the Director of the  
8 Region for Bureau of Reclamation. And Stein Buer came  
9 before the Board to indicate the support of all the major  
10 projects -- or all the major partners, if you will, on  
11 this project.

12           I don't want to repeat what was said in the June  
13 meeting. We are still pursuing the project as it was  
14 outlined at that time. We have made progress to date in  
15 particular. And in your package you were given a copy of  
16 a post-authorization change report provided by the Corps.

17           Today we have Chuck Rairdan as the project  
18 manager for the Corps. He's going to speak a few words to  
19 you about the purpose of that report and where we're going  
20 forward.

21           We also have Miki Fujitsubo is with us, the  
22 senior planner, to answer any of your questions that you  
23 may have at this point.

24           If you don't have any questions for me, I'm going  
25 to turn it right over to those gentlemen.

1           PRESIDENT CARTER: Any questions for Mr. Charney?

2           Thank you.

3           MR. RAIRDAN: Good morning. I think what I'll do  
4 is briefly describe what the purpose of this  
5 post-authorization --

6           PRESIDENT CARTER: Would you introduce yourself  
7 please just for the record.

8           MR. RAIRDAN: Yes. I'm Chuck Rairdan. I'm the  
9 Project Manager for the Folsom Dam Mods and Raise Project,  
10 which is also becoming commonly known as the joint federal  
11 plan, in cooperation with the U.S. Bureau of Reclamation.

12           The purpose of this PAC report is essentially to  
13 describe the changes that have occurred since the 2003  
14 mods report feasibility or design memorandum. And then  
15 also the 2002 Folsom raise report. And essentially what  
16 has changed on the mods is we're looking at a functionally  
17 equivalent alternative that achieves the same performance  
18 objectives. And also in conjunction with the Bureau's dam  
19 safety goal of passing the probable maximum flood and  
20 achieving other static and seismic type features.

21           And so what the PAC report lays out is that we  
22 have had a change of scope and cost on the mods portion of  
23 the project. And then on the raise portion of the  
24 project, we have had a scope change, down from the  
25 original proposed 7-foot raise to a 3 1/2-foot raise. But

1 essentially it's just reconfiguring the entire project as  
2 it includes the Bureau dam safety portion to a what you'd  
3 call an integrated master project along those lines. The  
4 idea being that it's being pursued more effectively and  
5 efficiently in that cooperation.

6 So, that's essentially what it lays out. I could  
7 go through some of the details or the summary details of  
8 those reports if the Board is interested.

9 PRESIDENT CARTER: Do we have anybody that wants  
10 to hear the details again? We've heard them a couple  
11 times. Is there -- okay, we'll pass on that.

12 MR. RAIRDAN: Okay. So I would just urge the  
13 Board to please support this critical federal action. And  
14 if there are any actions -- or any questions, I'd be happy  
15 to answer them.

16 PRESIDENT CARTER: In the past the Board has been  
17 very, very supportive.

18 Any questions for Mr. Rairdan or Mr. Charney?

19 SECRETARY DOHERTY: It takes a long time to  
20 digest all that material you send us.

21 MR. RAIRDAN: Indeed.

22 (Laughter.)

23 MR. RAIRDAN: Yes, I would refer to the executive  
24 summary. I think that probably gets through a lot of the  
25 tangle.

1           PRESIDENT CARTER:  So we'll entertain a motion to  
2 consider approval of the letter of intent to the U.S. Army  
3 Corps of Engineers to sponsor the project.

4           VICE-PRESIDENT HODGKINS:  So moved.

5           PRESIDENT CARTER:  I have a motion.

6           BOARD MEMBER RIE:  Second.

7           PRESIDENT CARTER:  And there's a second.

8           Any discussion?

9           All those in favor indicate by saying aye.

10          (Ayes.)

11          PRESIDENT CARTER:  And opposed?

12          And the motion passes unanimously.

13          Okay.  We'll move on to Item 10B, American River  
14 Watershed (Natomas Features) Project.  Consider approval  
15 of Resolution No. 06-31 to enter into an agreement to  
16 reimburse the Sacramento Area Flood Control Agency for the  
17 state's share of the cost of construction and completion  
18 of the American River Watershed (Natomas features)  
19 Project.

20          Mr. Lee.

21          PROJECT MANAGER LEE:  Good morning, Mr.  
22 President, members of the Board, Mr. Punia.  My name is  
23 Larry Lee.  I'm Project Manager of the American River  
24 Watershed Project (Natomas Features) for the state.

25          First of all I'd like to correct that it's



1 Resolution 06-30 and not 06-31.

2 PRESIDENT CARTER: Thank you for that correction.

3 PROJECT MANAGER LEE: Also, you've been passed  
4 out a copy of the resolution with recent changes from the  
5 one mailed to you prior in the week, which on the first  
6 page -- there's essentially three changes. And the first  
7 page the word "second" was added prior to the word  
8 "local".

9 On the second page --

10 PRESIDENT CARTER: I'm sorry. I'm not with you  
11 there.

12 BOARD MEMBER BURROUGHS: Just a second.

13 PRESIDENT CARTER: We did get a -- if  
14 everybody -- yeah, it's part of your packet. There is a  
15 Resolution 06-30.

16 SECRETARY DOHERTY: Is it under 10B?

17 PRESIDENT CARTER: It's under Item 10B, behind  
18 the staff report on it.

19 So in that item it's about five or six pages back  
20 where it starts.

21 Everybody got it?

22 SECRETARY DOHERTY: Yes.

23 Okay. So Mr. Lee, please, with that first  
24 change, would you run that by us again please.

25 PROJECT MANAGER LEE: Yeah. It says, "approving

1 the second local project cooperation agreement." And the  
2 word "second" was inserted.

3 PRESIDENT CARTER: Where is that?

4 PROJECT MANAGER LEE: At the very top on the  
5 first page, right under Resolution 06-30.

6 SECRETARY DOHERTY: So we should insert the word  
7 "second"?

8 PROJECT MANAGER LEE: Correct.

9 PRESIDENT CARTER: Approving the second local  
10 project cooperation agreement.

11 PROJECT MANAGER LEE: Correct.

12 Okay. On page 2, the third "whereas" down,  
13 there's an "MAO". That should be deleted and an "MOA" put  
14 in -- memorandum of agreement.

15 PRESIDENT CARTER: Thank you.

16 PROJECT MANAGER LEE: On the last page under the  
17 first Reclamation Board approves item, we add the word  
18 "second" before LPCA. And delete 2006, which is right  
19 after the LPCA.

20 Okay. And moving right along. I have Mr. John  
21 Bassett, Project Manager from Sacramento Area Flood  
22 Control Agency, here today. He'll answer any questions if  
23 there are any.

24 PRESIDENT CARTER: Okay.

25 PROJECT MANAGER LEE: In your package you have

1 the fact sheet of the American River Watershed Project  
2 (Natomas Features), draft copy of the Resolution 06-30,  
3 and draft copy of the local Project Cooperation Agreement  
4 between the Reclamation Board and Sacramento Area Flood  
5 Control Agency.

6 I'm here to ask you for your approval of  
7 Resolution 06-30 which would allow the state to pay SAFCA  
8 the remaining \$496,000 upon approval by the Corps, the  
9 state's balance for the Natomas Project 1A that was  
10 completed in 1993.

11 The background information is that SAFCA supports  
12 this action. SAFCA's estimate of the state's share of  
13 this project is \$5,396,000. The state has paid \$4,900,000  
14 on December 15th, 2003, and there's a remainder of  
15 \$496,000.

16 However, the Corps to date has approved  
17 \$5,273,800 with an anticipation of additional 122,200 to  
18 be approved for the Carmichael property.

19 I'd also like to mention that the California  
20 Legislature has appropriated \$496,000 in the state 2006  
21 fiscal year for the payment to SAFCA for this item.

22 And are there any questions?

23 PRESIDENT CARTER: Are there any questions?

24 PROJECT MANAGER LEE: This is an old, old item --  
25 1993.

1 BOARD MEMBER RIE: Yes, I have a question.

2 What is going to happen with these four -- or  
3 features 4 and 5? Is SAFCA going to fund those 100  
4 percent since the Corps's not funding those?

5 PROJECT MANAGER LEE: Just a moment.

6 Mr. John Bassett from SAFCA is here to answer  
7 that question.

8 MR. BASSETT: I'm not familiar with what features  
9 4 and 5 are.

10 BOARD MEMBER RIE: Feature 4, retaining and  
11 reinforcing the low points along the west levee of  
12 Pleasant Grove Creek canal; and feature 5, raising the  
13 south levee of the Natomas Cross Canal.

14 MR. BASSETT: Okay. I have it here now.

15 SAFCA under its original north area local project  
16 strengthened the levee on the -- the south levee of the  
17 Natomas Cross Canal by adding a seepage stability berm.  
18 There was language in the original '93 authorization by  
19 Congress which indicated that the improvements undertaken  
20 for the Natomas features could not encourage development  
21 in deep floodplains. So SAFCA undertook those activities  
22 I guess under its own funding under operation and  
23 maintenance district.

24 And, likewise, we hardened the low spots in the  
25 levee along the Pleasant Grove Creek canal by driving

1 sheet pile and capping those low spots with a concrete  
2 cap, such that it could be -- overflow could come into the  
3 basin without eroding the levee out and washing it away  
4 totally. And those were also undertaken fully by SAFCA's  
5 funds.

6 BOARD MEMBER RIE: Okay. So are you going to at  
7 some point ask the state for partial reimbursement of  
8 those features? Or is SAFCA just going to take care of it  
9 or not ask for anything?

10 MR. BASSETT: SAFCA will not ask for  
11 reimbursement of those two features.

12 BOARD MEMBER RIE: Okay.

13 MR. BASSETT: That's -- not to mislead you, and  
14 say that the follow-on authorizations in the '96 WRDA and  
15 '99 WRDA, which are fully covered under the Natomas  
16 features of the American River watershed, which is to  
17 raise the levee, that is part of the application we have  
18 before you we just submitted. And that would be fully  
19 cost shared between the Corps and the state and SAFCA. So  
20 that's follow-on work, but not the stuff we've already  
21 done.

22 BOARD MEMBER RIE: And that will come back before  
23 the Board at a later date?

24 MR. BASSETT: Yes.

25 BOARD MEMBER RIE: Okay. Thank you.

1           PRESIDENT CARTER: Any other questions?

2           BOARD MEMBER BURROUGHS: Just a clarification on  
3 page number 5. It says the Assistant Secretary of the  
4 Army in September of 2006 determined that it's premature  
5 to make a decision and that it is slated to be completed  
6 in 2007. Any comments on that?

7           MR. BASSETT: That determination is our second  
8 request. The reimbursement that is before you right now  
9 is the Natomas federal plan that was approved by the Corps  
10 in 1999. Subsequent to that, we submitted a -- what was  
11 called the expanded Natomas Federal Plan, which has a  
12 request for additional reimbursement. And the Secretary  
13 of the Army's letter addressed the second reimbursement  
14 request, and we are in discussions with headquarters at  
15 this time regarding that request. And when they have  
16 heard that we will be back with the state considering that  
17 portion of the funding. But that's not covered by this --  
18 it isn't the agreement that's before you today.

19          BOARD MEMBER BURROUGHS: Thank you.

20          PRESIDENT CARTER: My understanding -- and maybe  
21 I read that wrong -- was that Phase 1A and 1B included the  
22 features 2, 7 and 6 -- 2, 6 and 7 and Phase 2 was 1 and 3,  
23 which is under consideration today. So did I  
24 misunderstand --

25          MR. BASSETT: The features are included in all of

1 the projects. It's just the initial funding was that the  
2 Corps would say, "We're raising the levee" -- "We raised  
3 the levees three feet." The initial Corps report said,  
4 "We'll pay for the first foot of that raise, but we're  
5 going to wait and consider the additional two feet under a  
6 different reimbursement agreement." So although we worked  
7 on the same section of levee, the Corps is only funding a  
8 portion of it in the first phase of reimbursement and  
9 they're looking at the rest of it under the next phase of  
10 reimbursement. It's the same levee reaches, however.

11 PRESIDENT CARTER: All right. Any further  
12 questions?

13 Just to note for the record, the draft second  
14 local project cooperation agreement that we have in our  
15 packet, under Item 5 has two typos. They've misspelled  
16 Natomas twice there. So we'll need to get that corrected.

17 So we will -- if there's no further discussion or  
18 questions, we'll entertain a motion to consider approval  
19 of Resolution No. 06-30 to enter into an agreement to  
20 reimburse the Sacramento Area Flood Control Agency for the  
21 state's share of the cost of construction and of the  
22 completed American River Watershed Natomas Features  
23 Project.

24 VICE-PRESIDENT HODGKINS: So moved.

25 BOARD MEMBER RIE: Second.

1           PRESIDENT CARTER: We have a motion and a second.

2           Any further discussion?

3           Okay. All those in favor indicate by saying aye.

4           (Ayes.)

5           PRESIDENT CARTER: And opposed?

6           Motion carries unanimously.

7           PROJECT MANAGER LEE: Then I can go and correct  
8 those two mistakes.

9           PRESIDENT CARTER: Okay. Thank you.

10           At this time we will break for -- have a recess  
11 for lunch. We will reconvene here at 1:30.

12           So we'll see you at 1:30.

13           (Thereupon a lunch break was taken.)

14

15

16

17

18

19

20

21

22

23

24

25



1 AFTERNOON SESSION

2 PRESIDENT CARTER: Good afternoon, ladies and  
3 gentlemen. We'll reconvene the meeting of the State  
4 Reclamation Board.

5 As you may recall, we had finished up Item 10B,  
6 broke for lunch. There are no property management or  
7 enforcement actions.

8 So we're on to Item 13A, Application No. 18068  
9 David Stroud, Yolo County: Consider approval of placing  
10 fill material along an approximately 570 linear feet of  
11 landside levee slope of the Sacramento River in West  
12 Sacramento, within Reclamation District 900.

13 The purpose of this project to begin preparation  
14 for the construction of a future single family residence  
15 for year-round occupation.

16 So, Mr. Mirmazaheri.

17 FLOODWAY PROTECTION SECTION CHIEF MIRMAZAHERI:

18 Good afternoon, President Carter, members of the  
19 Board. For the record, Mike Mirmazaheri, Chief of  
20 Floodway Protection.

21 (Thereupon an overhead presentation was

22 Presented as follows.)

23 FLOODWAY PROTECTION SECTION CHIEF MIRMAZAHERI: I  
24 have a short PowerPoint presentation here dealing with  
25 this application, which I'll go through. And then I'll be

1 available for questions.

2 I know Mr. Stroud, the applicant, is also  
3 present. And if the Board has any questions from him,  
4 he's also available too.

5 --o0o--

6 FLOODWAY PROTECTION SECTION CHIEF MIRMAZAHERI:

7 Again, this is Application No. 18068. Applicant  
8 is David Stroud. And the application is to raise the  
9 landside of the levee to the same elevation as the levee  
10 crown -- existing levee crown by placing fill along the  
11 approximately 560 linear feet of the right, which is the  
12 west bank of the Sacramento River.

13 The applicant intends to create a pad for a  
14 future residence. And it would be a single family house  
15 on this fill.

16 --o0o--

17 FLOODWAY PROTECTION SECTION CHIEF MIRMAZAHERI:

18 The project is in Yolo County. It's in the City  
19 of West Sacramento, east of Jefferson Boulevard, along the  
20 right bank of the Sacramento River, approximately River  
21 Mile 52.5.

22 This map shows the proximity of the area. The  
23 City of Sacramento is on the east and West Sacramento is  
24 obviously on the west of the river. You have  
25 Sacramento -- Sacramento deep water ship channel here and

1 this is Sacramento River.

2 --o0o--

3 FLOODWAY PROTECTION SECTION CHIEF MIRMAZAHERI:

4 The next slide shows a little bit more closer.

5 And here again is Sacramento River and this is the deep  
6 water ship channel. And this is the railroad that goes  
7 out here.

8 And the property we're talking about is the small  
9 triangle here, which is this basically.

10 So this is the railroad. I'll go back to the  
11 other one, which was here, this railroad and river. This  
12 is where it's sitting now, railroad, and this is  
13 Sacramento River. There are existing structures on this  
14 piece of land. And as I said, this is the proposed area  
15 that will be -- if the Board approved, fill will be placed  
16 against the Sacramento levee on this side.

17 --o0o--

18 FLOODWAY PROTECTION SECTION CHIEF MIRMAZAHERI:

19 This is a drawing that shows how the layout is  
20 going to be. This is the fill. A portion of the fill,  
21 approximately 200 feet, is on the railroad side. But the  
22 fill wraps around here. And if you compare this to this  
23 one, the vegetation out here, most of it would stay, and  
24 the fill would be pretty much concentrated on this. So  
25 that's pretty much the layout of the project being

1 proposed.

2 --o0o--

3 FLOODWAY PROTECTION SECTION CHIEF MIRMAZAHERI:

4 Just to reiterate, this is a typical levee  
5 section, and the responsibility of the Reclamation Board  
6 in terms of regulatory limits is ten feet from the  
7 landside toe all the way across the channel to ten feet  
8 landside toe on the other levee.

9 So every encroachment application we receive we  
10 need to make sure that it's within the regulation and also  
11 the Reclamation Board limits are major consideration for  
12 that.

13 --o0o--

14 FLOODWAY PROTECTION SECTION CHIEF MIRMAZAHERI:

15 On a typical fill that we support at the staff  
16 level is if -- this is the typical cross section. You've  
17 got the waterside toe and the landside toe. And if this  
18 is the ten-foot easement or whatever easement that the  
19 Board may have, we typically ask the applicant to allow us  
20 1 and 1 -- if we have to get in and repair any part of the  
21 federal project levee, to allow a 1 and 1 here for the  
22 equipment to be able to get in. And that would make  
23 repair and maintenance possible to the Department staff  
24 and also to the Board staff.

25 --o0o--

1 FLOODWAY PROTECTION SECTION CHIEF MIRMAZAHERI:

2 This project, this is the proposed cross section.

3 This is Sacramento levee. And there's a bench here. This

4 is the toe of the existing levee. And ten-foot easement

5 shows out here, and from there is 1 and 1 up. So proposed

6 pad is supposed to be outside of this easement. This

7 altogether is 29 feet from the toe. And that's pretty

8 much within the past practice and guidelines that we have.

9 They're also proposing a 12-inch subdrain here to

10 collect any potential through-levee seepage and take it

11 outside.

12 --o0o--

13 FLOODWAY PROTECTION SECTION CHIEF MIRMAZAHERI:

14 There were two issues when this application was

15 submitted that at staff level we needed to resolve it

16 before we presented to the Board. One was the original

17 application was proposing the house pad to be within the

18 easement of the Board. And I advised the applicant that

19 that proposal the way it was submitted would not have

20 staff support to go to the Board. And applicant willingly

21 worked with us. And as a result, we had the 29-foot

22 setback from the toe, which again allows us to go in and

23 cut 1 and 1 and be able to repair.

24 The other issue that we needed to resolve was --

25 originally in the plan applicant proposed an 8-inch pipe

1 to collect the possible through seepage and take it  
2 outside. Calculations -- after reviewing calculations and  
3 reviewing the geotechnical report, I came to the  
4 conclusion that the way it was, based on calculation and  
5 based on the 8-inch submittal, it could run -- the flow  
6 discharge in the pipe could run 75 percent capacity or  
7 maybe even more. And I wasn't comfortable with that  
8 because -- number 1 is that during the high water, you  
9 know, some of those calculations may not exactly show what  
10 could happen and you could end up with more discharge.

11 The other concern that I had was these lines  
12 require maintenance; and if for any reason the maintenance  
13 is not adequate, then, you know, running at 75 percent was  
14 not really -- it doesn't give you a comfortable cushion to  
15 work with.

16 So, again I worked with the applicant. And as a  
17 result, the original submittal was changed and the pipe  
18 that goes along the levee to collect any possible seepage  
19 discharge is now 12 inch. And 12 inch based on a  
20 calculation it runs well under 50 percent. And I think  
21 there is good comfortable zoning there and with the  
22 adequate maintenance.

23 --o0o--

24 FLOODWAY PROTECTION SECTION CHIEF MIRMAZAHERI:

25 Benefits of the fill, one, it gives you an

1 oversized levee. An oversized levee, it's actually  
2 helping out the structure integrity of the levee. It  
3 decreases potential seepage because you have extra fill on  
4 the land side. It increases structural stability again  
5 because you have massive soil against the levee. It  
6 decreases -- as a result it obviously decreases chance of  
7 failure. And another benefit of that is, you know,  
8 elevated homes versus flooding potential. Obviously when  
9 you have a structure for habitation, you know, elevated,  
10 then the potential flooding for that structure is actually  
11 minimized.

12 --o0o--

13 FLOODWAY PROTECTION SECTION CHIEF MIRMAZAHERI:

14 Disadvantages or maybe concerns. Every time  
15 there's a fill against the levee is that you are concerned  
16 and you want to make sure of the levee maintenance and  
17 repair if possible. Again, in this case, with the 29-foot  
18 setback and allowing equipment to get down and having an  
19 easement from the applicant will take out this concern.  
20 So we are able -- if we need to, we are able to get in and  
21 excavate and do repair on the federal project levee.

22 The other concern generally is encroachment  
23 problems. And the house pad in this case is going to be  
24 outside of the easement. And then again from the 29 foot  
25 all the way to the toe the applicant has given Reclamation

1 Board easement for any type of flood-related work.

2 And lastly is actually flood fighting. And so  
3 when you have fill against the levee, you need to be  
4 concerned about flood fighting. And in this case, again  
5 I'm comfortable with the setback that we are able to get  
6 in and we are able to do the work, and applicant will not  
7 be able to put any above structure within that 29 foot  
8 from the toe unless he files with the Board and apply for  
9 whatever encroachment it may be in the future.

10 But this permit the way it's drafted and  
11 presented to you is not going to allow any  
12 above-the-ground structure within that area.

13 --o0o--

14 FLOODWAY PROTECTION SECTION CHIEF MIRMAZAHERI:

15 Policy considerations. The draft permit has an  
16 indemnification clause. And that's indemnifies the Board  
17 and DWR of any potential damage.

18 Again, applicant is not authorized to put any  
19 encroachment above-the-ground structure within that  
20 29-foot easement. And also applicant will be signing a  
21 covenant running with the land. And the covenant will be  
22 recorded with the County Recorder's office, will stay on  
23 file, and will be reflected on the title report.

24 --o0o--

25 FLOODWAY PROTECTION SECTION CHIEF MIRMAZAHERI:



1           So with considering what's been submitted and  
2   been modified later through working with staff, the staff  
3   supports this application as it is and would like for the  
4   Board to consider approval of it, and also perhaps  
5   delegate the final signature on that to the General  
6   Manager once the draft is approved -- is done.

7           And that is the end of what I have to offer. So  
8   if there are any questions, I'd be more than happy to  
9   entertain them.

10          SECRETARY DOHERTY: Now, the pipe that goes in is  
11   running parallel with the levee?

12          FLOODWAY PROTECTION SECTION CHIEF MIRMAZAHERI:

13          That is correct. It's under the fill. And the  
14   pipe -- the type of pipe is a high density and it's  
15   actually capable of having about 100 feet of fill or mass  
16   on top of it. It's pretty strong. It's perforated like.

17          SECRETARY DOHERTY: And so leading out from that  
18   pipe are there any leach lines or --

19          FLOODWAY PROTECTION SECTION CHIEF MIRMAZAHERI:

20          Outside of the -- outside of that it's -- if the  
21   seepage is collected, it's going to be outside of the  
22   fill. And I think it's going to be part of the surface  
23   water. And then gets collected -- the surface water, they  
24   also have a system, another 12 inch, which collects the  
25   surface runoff and takes it into the city storm drain.

1           PRESIDENT CARTER: Any other questions for Mr.  
2 Mirmazaheri?

3           BOARD MEMBER BURROUGHS: I realize the minimum  
4 requirement for the -- of the 10 feet. Do you feel that  
5 in this particular location that any additional feet would  
6 be required for levee maintenance?

7           FLOODWAY PROTECTION SECTION CHIEF MIRMAZAHERI:

8           Again, from the toe latitude we're getting 29  
9 feet instead of 10. It's a 10 plus, you know, the  
10 projected 1 and 1, that will give us 29 feet on that. And  
11 I'll bring that cross section up again to show.

12           So here is the toe of the levee, and then this is  
13 the 10-foot easement. And from here they're giving us  
14 another 1 and 1. This levee height is approximately 19  
15 feet. So that adds 19 more feet on top plus 10, so we  
16 have 29 feet. So that 29-feet easement we're getting from  
17 the applicant.

18           BOARD MEMBER BURROUGHS: Thank you.

19           PRESIDENT CARTER: Any other questions?

20           VICE-PRESIDENT HODGKINS: Yeah. Mike, who's  
21 responsible for maintenance of the pipe?

22           FLOODWAY PROTECTION SECTION CHIEF MIRMAZAHERI:

23           The maintenance of the pipe would have to be the  
24 applicant. The applicant is putting that in. And it's  
25 applicant's responsibility for it.

1 But, again, that was one of the reasons that the  
2 8-inch pipe was not something that I would have agreed to.  
3 But then we raised it up to the 12 inch, and the capacity  
4 is so much more.

5 VICE-PRESIDENT HODGKINS: Is the pipe important  
6 from the standpoint of the integrity of the levee?

7 FLOODWAY PROTECTION SECTION CHIEF MIRMAZAHARI:

8 In my opinion it's not important to the integrity  
9 of the levee, but it's important to collect potential  
10 seepage discharge, because the levee itself now with the  
11 fill is a large mass, you know, terms of --

12 VICE-PRESIDENT HODGKINS: I understand.

13 FLOODWAY PROTECTION SECTION CHIEF MIRMAZAHARI:

14 And in terms of responsibility for that, I know  
15 Tony from RD-900 is also here. And if he wants to speak  
16 on behalf of the rec district on that, he can.

17 BOARD MEMBER BURROUGHS: Steve, could you give a  
18 comment?

19 CHIEF ENGINEER BRADLEY: Yeah, in my opinion it  
20 is necessary for the integrity of the levee. Because what  
21 it does is reduce the core pressure within the levee.  
22 Otherwise you get the levee saturated. This removes the  
23 water before it can saturate the levee. And so if you  
24 should have rapid drawdown of your rivers for one reason  
25 or another, you know, if a storm comes up, saturates the

1 levee and falls right away, if that levee's saturated it  
2 can start slumping. If you get rid of that water, that  
3 just makes it much less likely to happen.

4 SECRETARY DOHERTY: But what I was worried about,  
5 and when I asked him about the pipe, is if there's no  
6 lines leading it away and if the levee is saturated, how  
7 can that water filter up out of that pipe to be outflow?

8 CHIEF ENGINEER BRADLEY: It actually is  
9 collecting it low down and moving it laterally out from  
10 the fill where it can be collected into the surface storm  
11 drain system. And then it's pumped -- basically it gets  
12 pumped back into the river eventually.

13 SECRETARY DOHERTY: So how low is the storm drain  
14 system?

15 CHIEF ENGINEER BRADLEY: Excuse me?

16 SECRETARY DOHERTY: How low is the storm drain  
17 system? In other words what I'm saying is is I just can't  
18 see that water coming out -- and then how is it going to  
19 find its way through to these storm drains?

20 CHIEF ENGINEER BRADLEY: The actual storm drains  
21 are buried in the ground which is even lower than this  
22 pipe. And I don't know the entire storm drain system of  
23 West Sacramento. But it's like water running off in the  
24 street. It runs down the street till it hits a -- a drop  
25 inlet drops into a pipe and then is collected somewhere.

1 SECRETARY DOHERTY: So they're connected to  
2 that -- they will be connected to that?

3 CHIEF ENGINEER BRADLEY: They're going to be  
4 connected to something. I don't know if it's over -- with  
5 overload flow or with a pipe. But they're going to be  
6 connected so that they can move that water out of the  
7 pipe.

8 FLOODWAY PROTECTION SECTION CHIEF MIRMAZAHERI:

9 Right. The surface overflow water, it gets  
10 collected into another pipe which goes into the city  
11 existing storm drain system.

12 SECRETARY DOHERTY: Yeah. But I just wondered  
13 how it was going to find its way through that pipe that's  
14 what, a hundred -- or 29 feet long or whatever, on the  
15 edge of the property, on the edge of the levee, how it was  
16 going to connect. That's what puzzled me.

17 FLOODWAY PROTECTION SECTION CHIEF MIRMAZAHERI:

18 Okay. So you're asking if the overflow area has  
19 adequate grading for the water to go into it. I think the  
20 answer to that is yes.

21 SECRETARY DOHERTY: Correct.

22 CHIEF ENGINEER BRADLEY: I did have one  
23 correction -- well, not a correction -- request for  
24 modification on the permit before you consider approving.

25 And that has to do with this 1-to-1 backslope,

1 where we did River Islands -- and this is very similar to  
2 the agreement we got with River Islands -- the 1 to 1 was  
3 based on having an engineered fill. So all I'd like to do  
4 is have the first condition of the permit modified that  
5 that 29 foot applies upon submittal of the applicant's  
6 submitting engineering data showing that it had been  
7 engineered fill. Does that make sense? They could put  
8 fill in there. But if it's not engineered, then the 1 to  
9 1 would not then be adequate. As long as engineered fill,  
10 the 1 to 1 would be adequate. It's just a minor  
11 clarification.

12 PRESIDENT CARTER: But the fill is intended to be  
13 engineered, correct?

14 CHIEF ENGINEER BRADLEY: It is.

15 PRESIDENT CARTER: So we just want to specify  
16 that?

17 CHIEF ENGINEER BRADLEY: We just want to make  
18 sure that we have approval of it before that's all taken  
19 care of.

20 FLOODWAY PROTECTION SECTION CHIEF MIRMAZAHERI:

21 And also condition number 25, which makes a  
22 reference to ASTM measured the 1557-91, you know, it talks  
23 about compaction and layers on that.

24 PRESIDENT CARTER: Do we know where the fill's  
25 coming from?

1 FLOODWAY PROTECTION SECTION CHIEF MIRMAZAHERI: I  
2 don't. Perhaps Mr. Stroud can --

3 PRESIDENT CARTER: It's off-site; is that  
4 correct?

5 FLOODWAY PROTECTION SECTION CHIEF MIRMAZAHERI: I  
6 would assume it's off-site, yes.

7 They're nodding their head yes.

8 PRESIDENT CARTER: Any other questions?

9 VICE-PRESIDENT HODGKINS: Is there a  
10 representative from RD-900 here?

11 FLOODWAY PROTECTION SECTION CHIEF MIRMAZAHERI:  
12 Yes, Tony is.

13 MR. SCHWALL: Hi. Good afternoon. Tony Schwall,  
14 RD-900.

15 VICE-PRESIDENT HODGKINS: Hi, Tony. Tell me, do  
16 you consider the pipe to be important to the integrity of  
17 that levee?

18 MR. SCHWALL: I think that the pipe is important.  
19 I think then -- we actually have a drainage system in that  
20 levee right now. We actually have a stability berm. And  
21 that will run right next to the stability berm with the  
22 drainage system that we currently have.

23 VICE-PRESIDENT HODGKINS: Would you be willing to  
24 accept the responsibility for the maintenance of this  
25 pipe?

1 MR. SCHWALL: I think we would take over that  
2 responsibility, yeah.

3 VICE-PRESIDENT HODGKINS: Okay. I would like to  
4 see that happen, because the applicant may or may not be  
5 sophisticated enough to do the maintenance of the pipe.

6 MR. SCHWALL: And it's right within our system at  
7 any rate.

8 VICE-PRESIDENT HODGKINS: Okay. So that's a  
9 change I'd like to see, that the maintenance of the pipe  
10 would be designated to RD-900.

11 PRESIDENT CARTER: Any other questions?

12 All right. We will entertain a motion from the  
13 Board action here.

14 What's your pleasure?

15 VICE-PRESIDENT HODGKINS: I move approval of the  
16 permit with the changes notified, which is Steve changed  
17 on submitting information to show the fill is engineered,  
18 and a condition that says RD-900 has to accept  
19 responsibility for maintenance of the pipe.

20 SECRETARY DOHERTY: I'll second it.

21 PRESIDENT CARTER: Okay. We have a motion and a  
22 second to approve the permit with the two changes noted.

23 Any further discussion?

24 All those in favor indicate by saying aye.

25 (Ayes.)



1 PRESIDENT CARTER: And opposed?

2 Okay. The motion carries unanimously.

3 FLOODWAY PROTECTION SECTION CHIEF MIRMAZAHERI:

4 Can I ask a point a clarification?

5 The second part of staff recommendation as far as  
6 delegating the General Manager to sign the permit, is that  
7 part of the motion as well?

8 PRESIDENT CARTER: That was not part of the  
9 motion.

10 VICE-PRESIDENT HODGKINS: I missed the --

11 CHIEF ENGINEER BRADLEY: That's the way it works  
12 normally. The permit, if you notice, is always set up for  
13 the General Manager to sign. Once the Board approves the  
14 permit, then General Manager signs.

15 BOARD MEMBER RIE: We don't need to include that  
16 as part of the motion every single time, do we?

17 CHIEF ENGINEER BRADLEY: No, we don't normally do  
18 that. Once the Board approves the permit -- the permits  
19 are set up for the General Manager's signature.

20 BOARD MEMBER RIE: Does that answer your  
21 question, Mike?

22 FLOODWAY PROTECTION SECTION CHIEF MIRMAZAHERI:

23 That answered my question. Thank you.

24 PRESIDENT CARTER: So the General Manager has the  
25 authority to exercise the Board's decision and approve the

1 permit.

2 FLOODWAY PROTECTION SECTION CHIEF MIRMAZAHERI:

3 Thank you.

4 PRESIDENT CARTER: Thank you.

5 13B, Application No. 17659-A, River Partners in  
6 Glenn County.

7 Mr. Morgan.

8 STAFF COUNSEL MORGAN: Thank you. Good  
9 afternoon.

10 We ask that this be continued to a future  
11 meeting, depending on when you have your next meeting. It  
12 may not be ready in January, but perhaps February. Staff  
13 has been having meetings with both River Partners and LD-3  
14 to discuss this issue. We met first with LD-3, we wanted  
15 to get from them their concerns and figure out how we  
16 could approach River Partners to address their concerns.

17 There were four major ones with which we had some  
18 common ground with them:

19 One, where they were concerned about hydraulic  
20 impacts of the project to plant in this regulated area  
21 that's supposed to have a certain flow.

22 They were concerned about their ability to  
23 maintain their levees -- project levees, which run right  
24 against the project that River Partners is contemplating.

25 They were concerned about the transfer to

1 government entities, particularly the federal government  
2 over which the Board really is not able to exercise much  
3 control.

4           They were also concerned about a loss of revenue  
5 to the levee district.

6           And so we formulated some ideas, brought in River  
7 Partners to talk with them about how we can address them.  
8 And they have asked for some time to -- we have to give  
9 them some specific issues for them to deal with. And  
10 they're going to come back with how they are dealing with  
11 them.

12           One of the things that -- the key thing was  
13 hydraulic impacts. And I won't go into the facts of it.  
14 But they were -- they do have a hydraulic analysis or at  
15 least an opinion that, you know, this is not going to have  
16 a hydraulic impact as -- but it was rather conclusory. It  
17 didn't have any -- it didn't, as we would say, show the  
18 work. And this is not church. We don't take things on  
19 faith. We wanted to see how they knew that it was not  
20 going to have a hydraulic impact. And they have promised  
21 to address that issue.

22           In terms of maintenance ability, again, if  
23 there's -- depending on whether or not they can  
24 demonstrate that there's not going to be a hydraulic  
25 impact from this project, that may or may not be a

1 problem; except in so far as it relates to in terms of,  
2 you know, maintaining the property and not having it  
3 exceed a certain roughness factor on-site.

4           In terms of the ability of the levee district  
5 however to maintain for the elderberries, that was  
6 something that we were told that they could get a letter  
7 from Fish and Game -- or, excuse me -- Fish and Wildlife,  
8 the federal service, saying that any of the activities of  
9 Levee District 3 on the levees wasn't going to be -- you  
10 know, or around elderberries wasn't going to be affected  
11 by this, that they would have the ability to go out and do  
12 all the maintenance they want and they wouldn't have to  
13 worry about how close they were to elderberries on the  
14 property.

15           We said we would provide them with a rather  
16 specific list of criteria of things that we would want to  
17 see LD-3 to be able to do. And if the letter from Fish  
18 and Wildlife adequately addresses that, that would be  
19 wonderful.

20           But we have not had a chance to get together and  
21 formulate our detailed list to River Partners yet for them  
22 to turn that over to Fish and Wildlife, so we don't know  
23 what the service is going to say.

24           The issue of transfer to government, again we'd  
25 raised some issues with them or suggested with River

1 Partners some conditions on the permit. The permit would  
2 be rather individual and specific to River Partners, with  
3 the understanding that whoever wanted to acquire it down  
4 the road would have to come back and execute a separate  
5 agreement with the Board to maintain the property under  
6 the same conditions as River Partners had. And if they  
7 wouldn't do that, River Partners would have to agree to  
8 return things to baseline condition -- and baseline  
9 condition out there is one elderberry -- at no cost to us.  
10 And reimburse us if they failed to do so. We could do it  
11 ourselves.

12           That's going to be a tricky one. They're not  
13 completely opposed to it. They are concerned about it  
14 burdening their property. But it really doesn't burden  
15 their property at all. They can still sell it. They just  
16 won't have this permit to transfer with it if they do,  
17 unless they meet the conditions. But, again, that's going  
18 to be a rather tricky one if we get to that point where we  
19 have to deal with it. That's one with potential pitfalls  
20 for us that we have to be very conscious about.

21           The fourth, and surprisingly the most  
22 contentious, was the loss of revenue. Levee District 3  
23 estimates that -- well, I think River Partners estimates  
24 that the amount of taxes that they pay -- which they do  
25 voluntarily since they're a nonprofit. But the amount of

1 taxes they pay that are then diverted into assessments for  
2 Levee District 3 is about a buck and a half. And Levee  
3 District 3 argued that, no, it was much more; it was more  
4 like \$5. And I -- you know, I'm not an accountant. I  
5 have no earthly idea what the actual dollar figure is.  
6 But it struck me that whoever was accepting this property  
7 could enter into an agreement to promise to pay Levee  
8 District 3 an annual amount equivalent to what they would  
9 pay if they were private landowners, which at the most is  
10 \$5 a year. And I was surprised how hostile the reception  
11 was to that suggestion.

12           So that, you know, we'll see where we go with  
13 that.

14           BOARD MEMBER BURROUGHS: I think that's a good  
15 suggestion.

16           STAFF COUNSEL MORGAN: Beg your pardon?

17           BOARD MEMBER BURROUGHS: I just want to interrupt  
18 and say I think that's a good suggestion.

19           SECRETARY DOHERTY: However, that suggestion  
20 meant that the value of that property would remain where  
21 it was the day it was sold. It would never increase in  
22 value. So they would be paying that lesser value always.

23           STAFF COUNSEL MORGAN: And, in fact, unless the  
24 usable land changed, it would be like Prop 13, frozen. I  
25 mean we would allow adjustments as Prop 13 would allow,

1 which wouldn't be particularly large. But someone else --  
2 accountants, tax people can figure out what those dollar  
3 amounts are, I'm sure, until River Partners and whoever  
4 would acquire the property later if they would -- if the  
5 Board wants to impose that condition and if they're  
6 willing to accept it.

7 But as you can see, there are a number of issues  
8 still to address. We're going to work with them the next  
9 month trying to address them, and hopefully bring this  
10 back to the Board, I would estimate, in February for some  
11 sort of action one way or another.

12 PRESIDENT CARTER: Any questions for Mr. Morgan?

13 SECRETARY DOHERTY: Yes. Mr. Morgan, I asked you  
14 and you said to ask staff. So I'm going to ask, but I  
15 don't know which part of the staff to ask: Is there any  
16 to trace back the breakdown of the levee around Goose Lake  
17 which increased the flow of water out into that area?

18 BOARD MEMBER BURROUGHS: Good question.

19 STAFF COUNSEL MORGAN: Yeah, I think that's  
20 something that I wouldn't suggest you'd ask of me, because  
21 they're going to have to look at the permits. But if you  
22 can indicate specifically an area for which there may or  
23 may not have been permits, we can track down through our  
24 land and right-of-way folks what property interests are  
25 out there, what we may have in the way of easements, what

1 sort of permits may have been granted or not granted.

2 SECRETARY DOHERTY: Goose Lake in 1993 on Rancho  
3 Llano Seco.

4 CHIEF ENGINEER BRADLEY: And what was -- what  
5 happened?

6 SECRETARY DOHERTY: Well, they took down a  
7 portion of Goose Lake so the water could flow through.

8 CHIEF ENGINEER BRADLEY: This was DWR that did  
9 these modifications, is that not correct?

10 SECRETARY DOHERTY: I don't know who did them.  
11 Maybe somebody just went out with a tractor and decided,  
12 "Hey, I want the water to flow this way," and so they did  
13 it. But is there a permit somewhere perhaps on record?

14 STAFF COUNSEL MORGAN: So we'll have to look into  
15 that. We don't know offhand. It was 1993?

16 SECRETARY DOHERTY: No, I wouldn't expect you to  
17 know offhand. But --

18 GENERAL MANAGER PUNIA: There was a DWR permit  
19 and the EIR in late eighties, in which there was proposed  
20 modification to the MMP3Bs into Goose Lake. And we will  
21 look into this and report back to you. Maybe we can  
22 provide that information and -- to you or --

23 SECRETARY DOHERTY: Okay. That would be great.

24 GENERAL MANAGER PUNIA: Okay. We'll check into  
25 that.



1 SECRETARY DOHERTY: Thanks.

2 PRESIDENT CARTER: Any other questions for Mr.  
3 Morgan?

4 VICE-PRESIDENT HODGKINS: Scott, it's \$5 for the  
5 entire parcel or \$5 an acre?

6 STAFF COUNSEL MORGAN: Five dollars for the  
7 parcel. That's their share of the -- the whole tax --  
8 property tax had been -- is part of the LD-3 assessment.  
9 They were interested in assessments for other things,  
10 county hospital, fire, whatever. But that's really not  
11 the concerns of the Board. I mean it's a general concern  
12 obviously. But the Board's concerned with LD-3's ability  
13 to maintain the project.

14 VICE-PRESIDENT HODGKINS: Thank you.

15 PRESIDENT CARTER: Okay. Thanks very much.

16 All right. We have nothing on permit actions, so  
17 we're on to Item 15, Delta Levees, Bethel Island.

18 Consider requesting submission by Contra Costa County of  
19 reclamation plan of Delta Coves project for Board approval  
20 pursuant to provisions of the Water Code section 51000, et  
21 seq.

22 Mr. Morgan.

23 BOARD MEMBER RIE: Mr. President, I need to  
24 recuse myself. I may have a conflict of interest.

25 PRESIDENT CARTER: All right. Would you like

1 to --

2 BOARD MEMBER RIE: I'm an official of Contra  
3 Costa County.

4 PRESIDENT CARTER: Okay.  
5 Mr. Fua.

6 (Thereupon an overhead presentation was  
7 Presented as follows.)

8 ASSISTANT GENERAL MANAGER FUA: For the record,  
9 my name is Dan Fua. I'm the Assistant General Manager of  
10 the Reclamation Board.

11 Mr. President and members of the Board my part in  
12 this presentation will be to provide you the background,  
13 some engineering facts and history of the Delta Coves  
14 project. I have a few slides here to try to make the  
15 presentation a little bit clearer.

16 --o0o--

17 ASSISTANT GENERAL MANAGER FUA: Our first slide  
18 is the aerial map of the Delta, showing the many islands  
19 and the waterways that cuts through the islands.

20 Here's the Sacramento River here. And then  
21 There's the San Joaquin over here.

22 And major cities in the Delta includes the cities  
23 of Antioch, Oakley, and Rio Vista to the east, City of  
24 Tracy to the south, city of Stockton to the east, and of  
25 course a portion of the City of Sacramento to the north.

1 Bethel Island is here. And that's where the  
2 Delta Coves development is located. Bethel Island is in  
3 the western part of the Delta.

4 --o0o--

5 ASSISTANT GENERAL MANAGER FUA: This is the  
6 aerial view or aerial map of Bethel Island, close-up map.  
7 The Delta Coves project development is in the southeastern  
8 portion of the island.

9 Bethel Island is mostly under -- below sea level.  
10 And it is protected by nonproject levees about 11.5 miles.  
11 It protects the island from flooding from the sloughs that  
12 surround the island, Piper Slough to the north, Taylor  
13 Slough to the west and south, Dutch Slough to the south  
14 and Sand Mound Slough over here to the east.

15 Bethel Island is about 3,500 acres and home to  
16 about 3,700 people.

17 The Bethel Island Municipal Improvement District  
18 is responsible for maintaining these 11.5 miles of  
19 nonproject levees. They're called local levees.

20 --o0o--

21 ASSISTANT GENERAL MANAGER FUA: The next slide is  
22 the map of the final development plan and the tentative  
23 subdivision map that was approved by the U.S. District  
24 Court of Northern California. I'll get back to that later  
25 why.

1           Anyway, the development is a 310-acre  
2 water-oriented development consisting of homes,  
3 recreational facilities, and commercial developments. The  
4 site plan is to reconfigure this plat area into a  
5 lagoon -- an inland lagoon surrounded by about three miles  
6 of perimeter levees, and finger levees that extend  
7 outwards to form the coves.

8           PRESIDENT CARTER: Mr. Fua, are those -- so those  
9 dark lines that --

10          ASSISTANT GENERAL MANAGER FUA: Those are the  
11 levees.

12          PRESIDENT CARTER: -- radiate from the outside  
13 are the finger levees?

14          ASSISTANT GENERAL MANAGER FUA: Yes.

15          So, anyway, part of the plan which is probably  
16 the most controversial for this project is the breaching  
17 of the local levee on the mound -- along the Sand Mound  
18 Slough.

19          BOARD MEMBER BURROUGHS: Can you point that out?

20          ASSISTANT GENERAL MANAGER FUA: Yeah, I'm trying  
21 to.

22          BOARD MEMBER BURROUGHS: Okay.

23          ASSISTANT GENERAL MANAGER FUA: Okay, this. This  
24 is the breach. This is the proposed breach of the Sand  
25 Mound Slough levee. So this is about a 160-foot-wide

1 opening, and this is to allow water into the lagoon and  
2 also for access. The perimeter levees would be connected  
3 to the old levee along the ends -- at the ends of breach  
4 structure.

5           So let me give you a little design information on  
6 the levees and the breach structure. The finger levees  
7 are wide -- I mean the perimeter levees are wide. It's  
8 about 130-feet wide at the crest.

9           The slope is 3 to 1 on the waterside, 2 to 1 on  
10 the landward side.

11           The top of the elevation -- the elevation is  
12 about 10.2 feet at the top of the levee. And that is  
13 about 3.2 feet above the 100 flood design elevation.

14           It also has -- I'm still talking about the  
15 perimeter levees. It also has -- they're also planning to  
16 construct counterfoils for slurry walls around it to adapt  
17 about 45 feet extending at least 5 feet into the  
18 underlying clay layer.

19           The entrance channels, as I've said, it's about  
20 160-feet-wide breach. And what they will do is to install  
21 a double sheet pile wall on each end of the breach.

22                               --oOo--

23           ASSISTANT GENERAL MANAGER FUA: Now, the history  
24 of the project. The Reclamation Board's record for this  
25 project dates back to 1964. In a letter dated October 8,

1 1964, the Board sent a letter to the Bethel Island  
2 Municipal Improvement District and requested the district  
3 to submit their reclamation plan for this project.

4           Our records show that the original developer did  
5 submit an application in 1976. But in 1977 the General  
6 Manager of the Reclamation Board sent a letter to the  
7 developer and informed him that the Board doesn't have any  
8 jurisdiction over the project, and that the project will  
9 not have an impact on the adopted plan of state -- the  
10 adopted state plan of flood control. That was the last  
11 involvement by the Board on this project.

12           In June 2006 of this year, Ms. Lisa Kirk, a  
13 resident of Bethel Island, wrote a letter to the Board and  
14 requested a copy of the Board's approval for this  
15 project -- reclamation plan of approval for this project.  
16 As I've said earlier, our involvement stopped in 1977 as  
17 far as our records are concerned.

18           As I said earlier, the Delta Coves project had  
19 been the subject of many public hearings and debates since  
20 1964. In fact, a lawsuit was filed by the developer  
21 against Contra Costa County in March 1989. The Northern  
22 District Court of California made a judgment in favor of  
23 the developer and, in fact, approved the final development  
24 plan and tentative subdivision map for the Delta Coves  
25 project.

1           The development has a certified EIR and EIS. The  
2 EIR lead agency was Contra Costa County. The EIS lead  
3 agency was the U.S. Army Corps of Engineers. In fact,  
4 this development has a section 10 and section 404 permit  
5 from the Corps of Engineers.

6           As I said earlier, Contra Costa County is the  
7 agency that reviews and approves the design and also  
8 oversees the construction of this project, which started  
9 in April 2006.

10          Bethel Island Municipal Improvement District also  
11 reviews the design and also oversees the construction of  
12 the project.

13          That concludes my presentation. And if you have  
14 any questions, I'd be happy to answer them. Otherwise I'd  
15 turn over to Scott Morgan to give you the legal background  
16 behind the staff recommendation to request Contra Costa  
17 County to submit a reclamation plan to the Board for our  
18 review and approval.

19          SECRETARY DOHERTY: Well, I don't have any  
20 questions for you, and he might answer my questions. But  
21 I can't see after reviewing all of the material that was  
22 sent to us why we should be involved with it.

23          ASSISTANT GENERAL MANAGER FUA: I think Scott  
24 will answer that question.

25          SECRETARY DOHERTY: All right.

1           STAFF COUNSEL MORGAN:  Scott Morgan, Board  
2 Counsel.

3           And you may decide that you do want to be  
4 involved in this.

5                               --o0o--

6           STAFF COUNSEL MORGAN:  There's a certain  
7 convergent evolution in the nature of our presentations.  
8 Just showing you where this is, circled in red you can  
9 Bethel Island is right at the edge of the Delta, right at  
10 the edge of the area that the Board has statutory  
11 jurisdiction over.

12                              --o0o--

13           STAFF COUNSEL MORGAN:  As Dan has mentioned, the  
14 history of this site -- I think I have the dates a little  
15 wrong.  I think it's 19 -- I think Dan mentioned 1976.  
16 1964, as Dan mentioned, the Board advised Bethel island  
17 that any plan of reclamation required Board approval.  And  
18 it was in jurisdiction of the Board in 1976, not 1977,  
19 Delta Coves applied for a permit to modify the levees, as  
20 opposed to approval of the plan.  And in '77, the letter  
21 you have, the Board said that work doesn't require a board  
22 permit.

23           And in 2005 -- early 2005 Ms. Kirk came to some  
24 Board meetings and has been coming to a few since, and was  
25 here earlier today raising some concerns about the Delta



1 Coves project and whether this was or was not something  
2 that was subject to Board approval.

3 --o0o--

4 STAFF COUNSEL MORGAN: This is a project that is  
5 within the jurisdiction of the Board under 8710, because  
6 it is tributary to the San Joaquin River. However, the  
7 Board does not issue, as I said, permits for nonproject  
8 levee work. It is required, however, by the Water Code to  
9 review and approve certain types of projects, which we'll  
10 get into in a little bit.

11 And the Board has not really been significantly  
12 involved in approving nonproject levee work that are in  
13 the Delta, especially things that are downstream from the  
14 main part of approved plans of flood control.

15 However, the Board is required by the Water Code  
16 to approve reclamation plans that are within the  
17 Sacramento and San Joaquin Drainage District under  
18 particular circumstances that I'll get into.

19 --o0o--

20 STAFF COUNSEL MORGAN: Hopefully soon. Here we  
21 are.

22 For any reclamation district that's located  
23 within the drainage district, the Sacramento/San Joaquin  
24 Drainage District, reclamation plans must be filed by that  
25 district with their county.

1           Once the county receives the plans, the plans  
2 will be sent by the county to the Board, two certified  
3 copies. And then the Board holds public hearings on the  
4 plans. And this includes not only original plans of  
5 reclamation, but also modifications to plans of  
6 reclamation.

7                               --o0o--

8           STAFF COUNSEL MORGAN: Well, that would all be  
9 fairly simple and dispositive of the whole issue, but for  
10 the fact that it applies only to reclamation districts.  
11 And Bethel Island Municipal Improvement District is, as  
12 you can tell by the name, not a reclamation district.  
13 There are in fact two districts out in the Delta that are  
14 not reclamation districts. This is one of them.

15           It was formed pursuant to a special act back in  
16 1960. But here's where it gets interesting, is that  
17 section 100 of the Special Act states that Reclamation  
18 District 1619, which was there before the Bethel Island  
19 Municipal Improvement District, is merged with the  
20 district and all of its obligations are obligations of the  
21 district.

22           And what I cannot tell you standing here is  
23 whether that meant all its existing contractual  
24 obligations that it had to fulfill were obligations of  
25 this new district; or anything that a reclamation district

1 would have to do by law, this district would also have to  
2 do by law. And the entity that I believe can answer that  
3 for us best is the county. So that's why our  
4 recommendation is not to, you know, demand this because  
5 it's required by the law, but to request it and say to the  
6 county, "How do you treat this district in your  
7 jurisdiction? Is this like a reclamation district for  
8 purposes of reclamation district law or is it something  
9 else?"

10 --o0o--

11 STAFF COUNSEL MORGAN: As I said, the Board is  
12 required to approve reclamation plans that are within the  
13 boundaries of the Sacramento drainage districts. And this  
14 municipal improvement district is not a reclamation  
15 district but does have those obligations. And that's why  
16 we would recommend that the Board send a letter to the  
17 county seeking the reclamation plans for approval of the  
18 Board.

19 Now, even if you do that, there's another  
20 question of: What are we going to do with those plans if  
21 we get them? Because the county could say, "This is not a  
22 reclamation district." They received subvention funds  
23 like all the other reclamation districts in the Delta, so  
24 it's treated as though it's a reclamation district for  
25 other purposes. But, again, that's not dispositive

1 either. It really is something you work out with the  
2 county.

3           The scope of review in the Water Code is not  
4 exactly spelled out in great detail. It says the Board  
5 shall not modify, amend, or reject any plan on the grounds  
6 that the plan provides a levee which is of excessive  
7 strength in height or width.

8           And then it goes on to talk about compensation  
9 from the Board for any excesses, and then how the local  
10 district won't be able to seek payback from the  
11 Reclamation Board. This was obviously written at a time  
12 when the Board was envisioned as an entity that could go  
13 out and make assessments through the Sacramento and San  
14 Joaquin Drainage District and pay for a lot of these  
15 projects. And history has shown that assessment authority  
16 had really never been a viable thing.

17           Just for by way of background, the recent  
18 practice of the Board even extending before my time on the  
19 board, but, you know, the last few decades the Board  
20 practice has been to be fairly neutral towards projects  
21 that are downstream of project facilities -- capital P  
22 project facilities, I mean those for which the state has  
23 given assurances of cooperating to the federal government.  
24 Those -- most of the things described in Bond 1E as the  
25 plan of flood control.

1           Things that are not -- things that are not  
2 project levees, project features are things which in  
3 recent history the Board has taken much less interest in  
4 and has spent much less time worrying about, because the  
5 main features are the project features that we have worked  
6 with the Corps to develop and for which after Paterno we  
7 now know we now have a loaded gun pointed at our heads.  
8 So we can feel some sympathy for the folks in Three Rivers  
9 who complained about us in that fashion.

10           The historic practice, because this is in the  
11 law, the Board is required to approve reclamation plans,  
12 has been to, what I am told -- this is sort of anecdotal  
13 based on talking to former board counsel that are still  
14 within the Department of Water Resources -- is to look to  
15 see that the impacts to the adopted plan of flood control  
16 are not significant or are nonexistent. And we're not  
17 really here to get into that today, but I'm assured by Dan  
18 Fua that, looking at the engineering aspects of this,  
19 there is no hydraulic impact or there's no impact of any  
20 physical concern to our project features. So we're not  
21 looking at it primarily for that purpose but primarily  
22 concerned whether or not this is something that by law  
23 we're required to do.

24           BOARD MEMBER BURROUGHS: I think on that one note  
25 I have a concern. I don't see how -- if we're looking at

1 the whole Delta system as a whole and we're -- and this is  
2 going to change the way the water flows, I see it as a  
3 definite impact on public safety and for flooding issues  
4 as well. I don't see how it cannot have an effect.  
5 Everything has an effect.

6 STAFF COUNSEL MORGAN: Well, again, we're not  
7 here to discuss the engineering aspects. If you elect to  
8 ask the county to provide the plans and the county agrees  
9 that this is something that the Board should approve, and  
10 it comes before the Board, then the Board can open a  
11 Pandora's box literally of issues in the Delta because, as  
12 I showed you with the Water Code, the guidance is pretty  
13 scant on what you look at and why.

14 But, again, historic practice has been primarily  
15 to focus on the project features that have been adopted by  
16 the Legislature, and the Board has been the main point of  
17 contact with the Corps of Engineers, and not to  
18 micromanage all of the south Delta.

19 BOARD MEMBER BURROUGHS: But with the recent  
20 letter that was sent by DWR and the Governor about  
21 building new homes near levees, even though this is a  
22 project levee, it's still a part of the overall scope and  
23 picture of public safety, is it not?

24 STAFF COUNSEL MORGAN: Well, it's certainly in  
25 the same system. And I will leave it to the engineers to

1 talk about the hydrologic connectivity of this part of the  
2 system to any other part and to the project features over  
3 which the Board specifically has given assurances that we  
4 will operate and maintain.

5           And, again, this is historic practice -- you  
6 know, recent historic practice and going back quite a  
7 ways. One thing, if the Board were to ask for this, we  
8 would want to go and look at examples. There are some  
9 reclamation plans that were reviewed and approved by the  
10 Board for various reclamation districts out in the area.  
11 But one of the -- this is something -- as I said, this is  
12 something that's required by state law for reclamation  
13 districts. And the question -- and the reason it's coming  
14 before the Board, it would be a very straightforward thing  
15 if in fact this was a reclamation district. It's not.

16           But this is something that has been raised by the  
17 public. Ms. Kirk has brought this issue before the Board.  
18 At the last Board meeting the question was raised, "Well,  
19 where are we with this?" And I said, "Well, we need to  
20 bring it to the Board for an action, because it's not  
21 clear how we want to interpret Bethel Island Municipal  
22 Improvement District, as a reclamation district or not."

23           My recommendation is that if the ambiguous  
24 language of their enabling act suggests that they could be  
25 considered as such, and I think it would be really the

1 county to make the call, we should consult with the county  
2 and say, "Should you be" -- our relationship in this is  
3 with the county, not a district, by the Water Code. We  
4 get the plans from the county. So we should be in contact  
5 with the county and say, "Are they a reclamation district  
6 in your eyes? Should you be sending those plans to us for  
7 our approval?"

8           And then the broader question would come up: "If  
9 you are going to do that, what are we going to look at?  
10 What are we going to be approving?"

11           In light of we had Mr. Tilton here this morning  
12 discussing his lawsuit against the reclamation district  
13 that works on levees in his area. And I think you can  
14 easily foresee being name plaintiffs in a lawsuit that,  
15 you know, that the Board had an approved plan for that  
16 district. So we would want to be very careful to -- you  
17 know before, approving things too broadly, to realize that  
18 you could be taking on some exposure by doing so.

19           SECRETARY DOHERTY: One of my questions would  
20 be -- for over a year I've been told that the Delta Vision  
21 Study would be published, which islands would have to be  
22 saved, which ones could go, so forth and so on. That's  
23 not yet ready for publication. So I don't see how we can  
24 tackle something that may not even be allowed in  
25 existence.



1           STAFF COUNSEL MORGAN: Well, whatever the  
2 Department comes up with, they're concern I think will  
3 relate to where you want to spend state resources, for  
4 instance, through the special projects or the subventions  
5 program to preserve levees on Delta islands, that you do  
6 not want to fail because it will affect the water quality  
7 of water being pumped out through the Delta, I think  
8 primarily. I mean there may be other issues, but that's  
9 one of the main reasons.

10           This, however, is something that's just required  
11 by Water Code. If a reclamation district out in the  
12 Delta, or anywhere for that matter, as long as it's in the  
13 boundaries of the Sacramento/San Joaquin Drainage  
14 district, want to adopt or amend a reclamation plan, that  
15 has to be approved by the Board, period. It doesn't  
16 matter what the Department wants to do with its money to  
17 help those districts succeed or not. That's an  
18 independent obligation imposed by law, which unfortunately  
19 the regulations when they were adopted by the Board state  
20 nothing about this, because it was not something that at  
21 the time the regulations were adopted was being actively  
22 pursued.

23           The reclamation plans out there were adopted  
24 many, many years ago, and either were approved by the  
25 Board or not. But then nothing happened for a long time,

1 and no new plans were created. And the things that were  
2 revised, like Discovery Bay, for instance, were I presume  
3 not brought before the Board. I don't think there was any  
4 adopted plan for Discovery Bay.

5 PRESIDENT CARTER: So if I can kind of recap a  
6 little bit.

7 What we've heard is that geographically Bethel  
8 Island is in the jurisdiction of the Board. We have this  
9 gray area in that there is no reclamation district out  
10 there but there may be a municipal improvement district  
11 that has assumed the responsibilities of the reclamation  
12 district and might be considered a reclamation district,  
13 in which case there's precedent to ask for a reclamation  
14 plan from them.

15 And staff has opined that there are no hydraulic  
16 impacts. Based on what analysis, we don't know. But  
17 there's no hydraulic impact to the system, the adopted  
18 plan of flood control, not project levees. And so those  
19 are kind of in general the key facts that I can recall.

20 STAFF COUNSEL MORGAN: And, again, you only  
21 learned there was no hydraulic impacts from counsel  
22 standing here. I'm not an engineer. So I'd always  
23 consider the evidence of anything.

24 But everything else you said was true.

25 BOARD MEMBER BURROUGHS: So if there's no

1 hydraulic studies done, how can someone conclude that  
2 there's no impact?

3 STAFF COUNSEL MORGAN: No, I said that -- that's  
4 not for discussion for today. The only thing for  
5 consideration today is whether or not the Board wants to  
6 send the letter to the county. And the decision here is  
7 really --

8 SECRETARY DOHERTY: -- to Contra Costa County.

9 STAFF COUNSEL MORGAN: -- to Contra Costa County,  
10 right. "Do you regard this ending as the functional  
11 equivalent of a" --

12 SECRETARY DOHERTY: So we're asking them, is that  
13 what you're saying?

14 STAFF COUNSEL MORGAN: Yeah. I mean you would  
15 write to Contra Costa County and saying, you know, "the  
16 statute that created this district has language that  
17 suggests that it may have to conduct its business as a  
18 reclamation district. If that's so, you are supposed to  
19 be sending us the reclamation plans. Is this in fact the  
20 same thing as a reclamation district or not?" And if they  
21 say, "No, no, absolutely not. It's completely  
22 different" --

23 SECRETARY DOHERTY: What's our alternative?

24 STAFF COUNSEL MORGAN: -- then that would be it.

25 Beg your pardon?

1 SECRETARY DOHERTY: What's our alternative?

2 STAFF COUNSEL MORGAN: Not sending the letter. I  
3 mean I didn't -- I wouldn't recommend saying, "We know  
4 this is a reclamation district," because we clearly don't.  
5 I can't advise you that it is. I think we could only  
6 write to them and say, "We think it may be. Do you  
7 believe that it is? If it is, then this law applies and  
8 you need to approve a plan." If they send back and say,  
9 "No, we don't think that it is," then the Board has to  
10 decide do we agree with Contra Costa County's reason.

11 The alternative, however, is simply not doing  
12 anything at all.

13 SECRETARY DOHERTY: Well, then is that a new  
14 question? I think we need to ask. I think we need to  
15 send that letter and get it done, find out what their  
16 answer is, and then we can proceed. But until we do that,  
17 we don't know what to do.

18 PRESIDENT CARTER: Is that a motion?

19 SECRETARY DOHERTY: I'd like to make it a motion.  
20 But I think there's a question over here.

21 VICE-PRESIDENT HODGKINS: Well, Scott, as I look  
22 at the project, you know, if we got into analyzing this  
23 like River Islands, there could be a lot of time burned  
24 looking at whether these things are adequate or not. And  
25 I don't think there are any hydraulic impacts either

1 changing water flows other than the tidal flows in here.

2 But the one thing that bothers me somewhat about  
3 this is we recently have been sued over the issue of an  
4 environmental document that didn't analyze the potential  
5 impact of sea level rise. And as I'm sure everybody  
6 knows, the state's report is that over the next hundred  
7 years potentially three feet of rise. This was described  
8 as 3.2 feet above the 100-year water surface elevation.  
9 So, you know, maybe there's a problem here with sea level  
10 rise. And whether these things are high enough or not,  
11 I'm not sure I particularly want to get into that. But  
12 could we even?

13 STAFF COUNSEL MORGAN: Well, exactly what the  
14 Board can do out there has never been fully explored by  
15 the Board or by anyone else.

16 As I said, certainly the Board has taken  
17 something of an indifferent attitude towards projects that  
18 were far enough downstream. This really has created, as  
19 you know, to deal with the Sacramento system and the San  
20 Joaquin system subsequently added in. And once the water  
21 got away from Sacramento, it was, "Well, okay. That's it.  
22 We're done."

23 And the laws, however, were more broadly written  
24 in terms of where the jurisdiction lies and some of these  
25 other laws imposing actually affirmative duties on the

1 Board to review things. But it doesn't say what you have  
2 to review, which is why I would look at this sort of  
3 practice. A lot of the things that the people in the  
4 Delta would like for the Board to look at are things the  
5 Board has never really looked at. For instance, are these  
6 projects being built to Corps standards? Or is it even a  
7 good idea, or any of those things.

8           The Corps -- I mean the Board has been focused  
9 on, "Is this going to hurt our adopted plan of flood  
10 control?" And if not, you know, that's fine. You know,  
11 we don't want to endorse it. We don't endorse it. We  
12 simply want to evaluate whether it's going to hurt the  
13 people upstream. And then they'll have to deal with the  
14 folks downstream.

15           But, again, the language is broad. And if the  
16 Board decided to go off into the direction of evaluating  
17 these things in more detail, I think the Board would have  
18 the ability to do so. But if this becomes a constant  
19 practice, we're going to need regulations for it.

20           PRESIDENT CARTER: We have a couple members of  
21 the public that wanted to address the Board on this  
22 particular item.

23           Mr. Foley.

24           MR. FOLEY: Good afternoon, Mr. Chairman and  
25 members of the Board.

1           It seems to be a question of jurisdiction --  
2 discussion of jurisdiction. Who has jurisdiction over  
3 development? The public does. Public has agreed and made  
4 law -- zoning law that restricts development. It was the  
5 public agrees to -- who has jurisdiction? The public.  
6 And what the public cares about is not which agency or  
7 under which land use or something that the development is  
8 approved or not approved. The public's concern is that if  
9 the project's a bad project or not good for the public,  
10 that there be some agency -- which agency, you know, we  
11 don't want to get sidetracked on land-use issues -- but  
12 just some agency. And so if -- whatever reason the  
13 development in the Delta, I mean we have the Delta  
14 Protection Commission, they agreed that, no, that that is  
15 not a good thing, development in the Delta we should avoid  
16 if we can or not, go that way.

17           So the public sees -- the public understands that  
18 something like Delta Coves is not a good project. What  
19 the public cares about is not from what point it can stop  
20 the project or not or question the project. They just  
21 care that they can, that there would be some agency that  
22 they can. And if there is -- if there is a possibility,  
23 if there's language that's the public's -- that is the  
24 public interest, that it be pursued.

25           So it's just -- of course it's a legal issue

1 because the zoning. We've all agreed on that, that  
2 development must -- that we allow development -- we live  
3 in housing, we must allow. What we all agree, if it's  
4 made law, that development is restricted by the public.

5 So if there is a public agency available to  
6 restrict undesirable development, then the public's  
7 interest is not being pursued.

8 Thank you.

9 PRESIDENT CARTER: Thank you.

10 Mr. Tillis.

11 MR. TILLIS: Good afternoon, Mr. Chairman and  
12 Board members. I'm Kevin Tillis. I'm Hultgren-Tillis  
13 Engineers. I'm a civil engineer. I have been working ten  
14 as technical reviewer on the Delta Coves project.  
15 Initially I was hired by BIMID to provide technical review  
16 of the project. In their capacity as reviewer, BIMID has  
17 agreed to take over maintenance of the three miles of  
18 levees, but they're not actually the permitting agency.  
19 That's the county.

20 Also with part of the lawsuit that was  
21 adjudicated, there was a requirement that the developer  
22 enter into an agreement with Contra Costa County and BIMID  
23 to hire an independent geotechnical engineer, be hired  
24 during construction. We were chosen to do that work. And  
25 so as well as the contract with county, we have somebody



1 out there full time. I'm involved -- and I'm on a review  
2 basis. So we're not the designers; we're the reviewers.

3 And so I came today, one, if you have some design  
4 questions, I could answer those; and also provide a little  
5 information on the project.

6 You know, in my mind this has -- it's been a long  
7 process in terms of design. It is a well designed  
8 project. It's designed to remediate liquefaction  
9 concerns. They volunteer assessment foundation  
10 preparations for liquefaction.

11 There was only a small amount of peat left on the  
12 site. Peat has been removed. So essentially we have a  
13 sand levee on a sand foundation.

14 Because of seepage concerns, they're putting in a  
15 slurry trench which will extend 45 -- 55 feet from the top  
16 of the levee all the way through the sand aquifer. It's a  
17 soil bentonite trench. The levee itself is quite wide.

18 Because of the way the project was laid out, the  
19 levee is wide and becomes narrower at the breach. There's  
20 not room for a wide levee, so they converted it to a sheet  
21 pile structure, which has been designed by a main line  
22 engineering firm. And we have reviewed that structure.  
23 Overall I consider it to be a relatively robust design.

24 What I do want to get across to you is, and you  
25 might consider as you go along here -- and I'm not sure it

1 came across -- this project is well under construction,  
2 the foundation driven is done, the slurry wall's about 30  
3 percent complete. Construction will be essentially  
4 completed on all levee elements by the middle of next  
5 year. They've already moved two, two and a half million  
6 yards of soil according to the approved plans from the  
7 county. And they're proceeding -- they have a breach  
8 deadline of March of '08. And that's when their, I  
9 believe, section 10 permit expires with the Corps of  
10 Engineers. So they want to plan for the project. The  
11 developers of course they get in under that timeframe.

12           And so I'm here if you want to ask some  
13 questions. And I guess -- as I'm sitting here in the  
14 crowd listening my thought is if you're going to take on  
15 the review, by the time you get to that point this project  
16 will be constructed.

17           So I guess my question is: What exactly would  
18 you be reviewing? And that's something you need to  
19 consider, because it's not something that you're going  
20 to -- you're not going to be in the design phase. You'll  
21 be in at the end of the project.

22           Thank you.

23           PRESIDENT CARTER: Okay. Thank you.

24           All right. What's the Board's pleasure at this  
25 point?

1 MS. KIRK: Well, wait a minute.

2 PRESIDENT CARTER: Any questions from anyone?

3 MS. KIRK: Yeah, I did -- I gave you all a  
4 package. So I kind of thought that's -- so can I come and  
5 speak?

6 PRESIDENT CARTER: I'm sorry, I didn't have a  
7 card.

8 You would like to speak? You'd like to address  
9 the Board?

10 MS. KIRK: Yes.

11 PRESIDENT CARTER: Please.

12 MS. KIRK: You have one -- you have my copy. Can  
13 I...

14 And you all have a copy of this, right?

15 PRESIDENT CARTER: Yes.

16 MS. KIRK: Okay. If you refer to the letter in  
17 here -- oh, my name is Lisa Kirk, Bethel Island.

18 Originally The Board asked the developer in 1964  
19 to submit an application. Then in 1977 -- I'm sorry, but  
20 in your package that your staff designed for you. Then in  
21 1977 you wrote the developer a letter saying that you  
22 didn't have jurisdiction. I think we've established that  
23 you have jurisdiction under Water Code 8710. I think  
24 that's been established, whether you want to exercise this  
25 or not is another question, getting a reclamation plan or

1 now putting a request in on whether or not to the  
2 reclamation district. Their main funding is from our  
3 property taxes that is through the county for drainage.  
4 They get most of their money from you, subvention programs  
5 to maintain their levee and ditches. They have no --  
6 they've never gone to LAFCO and become anything else but a  
7 reclamation and drainage district.

8           So you can ask Contra Costa County all you want.  
9 They don't -- they're not -- when I first started this  
10 Contra Costa County stated that "We don't approve levees  
11 or space shuttles." Well this project has proved them  
12 wrong.

13           So you can go that direction and ask the county.  
14 I would also ask the county for any hydrology reports that  
15 have been done on Bethel Island on this project. Because  
16 I hear people saying, "Oh, it doesn't have any  
17 hydrological effects." Well, I can't find any hydrology  
18 reports.

19           Kevin, have you seen any on the what will happen  
20 with the entrance or on the Sand Mound Slough. Is there a  
21 hydrologist even a part of this whole process?

22           PRESIDENT CARTER: Make sure you're addressing  
23 the Board, Lisa.

24           MS. KIRK: Okay. Well, you can ask Kevin.  
25 Because I haven't been able to find one, and I know

1 Kevin's not a hydrologist. And we have been unable to  
2 find a name of a hydrologist.

3 But beyond that, I want to bring your attention  
4 in my package to a letter -- I put in a pack -- I put in  
5 the -- that's the site that's to be breached.

6 Now, there are many homes on Sand Mound Slough.  
7 This is an island that you're going to have to save, no  
8 matter if you don't want to. There's too many properties.  
9 There's too many lives. It has value. So if there's a  
10 question about whether or not you're going to save Bethel  
11 Island, you're going to save Bethel Island.

12 So as you can see, there's existing properties  
13 and docks. This house next to it that you see here is  
14 probably built in the fifties. So there's existing homes  
15 all over.

16 If you look at the next page, Richard Meehan --  
17 now, we all probably know Richard Meehan. He was in the  
18 Paterno suit. He testified. In 1989 the reclamation  
19 district, BIMID, had the good sense to hire him just to  
20 evaluate the project. His report is in here. And the  
21 thing that concerned me about his report is increased  
22 flood hazard to the existing residents along Stone Road.  
23 So what does he mean by that? And why would the people  
24 along Stone Road all of a sudden have an increased flood  
25 hazard?

1           Well, if you look at your maps that have been  
2 provided by your staff -- and I think it's Exhibit 3 --  
3 can you see that map? The existing levee, all that  
4 project behind it becomes acres of water now. It was a  
5 flood basin for the existing residents of Stone Road.  
6 It's gone. Stone Road now becomes a peninsula. And you  
7 can see where the worthy cut in the existing levee is, and  
8 now all the water behind Stone Road and the slough in  
9 front of Stone Road.

10           So I know the question is: What can you do? And  
11 that is a big question. The problem because of the  
12 lawsuit and the lack of oversight is one reason why I've  
13 come here. If you go back to my package and look for the  
14 letter from the Department of the Army Corps of Engineers  
15 I love this one. When I found this one, I was like  
16 "uh-oh". This was to the developer in 1995.

17           "Although" final plans and construction  
18 procedures for the levees -- they were going to review and  
19 design -- "was a permit condition when this project was  
20 authorized in 1978, it is no longer the case. The Corps  
21 of Engineers will not evaluate or validate your levee  
22 design."

23           Okay, who's validating it? Just the engineer --  
24 private engineer who's doing it right now.

25           "As you know, your project will also require

1 approvals from the Reclamation Board and potentially the  
2 Department of Water Resources' Division of Safety of Dams.  
3 These agencies would be the appropriate review agencies  
4 for authorizing levee construction."

5           In your staff report it says that Contra Costa  
6 County is approving all aspects of this project. Well,  
7 they don't have any ordinance or standards for levee or  
8 breach structures. So what they're approving this to, is  
9 it the Army Corps manual? Is anyone using that? Or even  
10 what you go by to set a project against? There's no  
11 telling.

12           So it is a hard question of what to do now.  
13 You're right, the project is being constructed. My  
14 concern and Richard Meehan's concern is the existing Stone  
15 Road levee.

16           And maybe there might be more of a cooperation  
17 with the district to try to get that levee up to a  
18 standard. We had a disaster declared a half a mile from  
19 the breach site in May. It's seeping. It has issues.

20           And when Richard Meehan said, you know, "Get that  
21 levee up to standard," that was in 1989. We've had almost  
22 20 years to do it. We knew this project was coming.

23           So as far as altering a floodway, it does. And,  
24 again, no hydrology has been done. I know this is really  
25 tough. And I don't -- I think that having the county -- I

1 think the county will get totally confused by your  
2 request.

3           So I would recommend that maybe you guys put your  
4 heads together, look at the Water Code. And what else can  
5 you come up with to assist the district in looking at the  
6 existing Stone Road levee?

7           Thank you.

8           PRESIDENT CARTER: Thank you.

9           So, ladies and gentlemen, what's your pleasure?

10          BOARD MEMBER BURROUGHS: Well, I would like to  
11 finish asking the question.

12          Is there anyone in the audience that knows  
13 whether or not there's a hydrology report?

14          PRESIDENT CARTER: Or a hydraulic analysis in the  
15 area?

16          Evidently not.

17          BOARD MEMBER BURROUGHS: And what about in this  
18 packet of information? It also referred to Bethel Island  
19 Municipality requesting an EIS. Has that been done?

20          MS. KIRK: I can answer that. He can answer the  
21 first one.

22          MR. TILLIS: On the hydrology study. There has  
23 been a study in the lagoon in terms of the inflow of water  
24 in and out of the lagoon and how much time it takes for  
25 attention time, and they're looking to algae blooms and



1 those kind of things. How they tie that into the greater  
2 hydrology of the Delta, I'm not sure. But there has been  
3 a local hydrology study done as part of the lagoon  
4 management plan.

5 BOARD MEMBER BURROUGHS: Would it be possible to  
6 get a copy of that to our Board?

7 MR. TILLIS: Well, I can't give you a copy of  
8 the -- engineer. You could certainly request a copy  
9 from --

10 ASSISTANT GENERAL MANAGER FUA: Yeah, actually I  
11 have it. But it really has nothing to do with, you know,  
12 whether it will impact the state plan of flood control,  
13 because it's -- essentially that study's just about water  
14 quality actually.

15 BOARD MEMBER BURROUGHS: About water quality?

16 ASSISTANT GENERAL MANAGER FUA: Yes.

17 BOARD MEMBER BURROUGHS: So it's not really  
18 about -- the question really is -- is really about the  
19 effect on our flood system and our flood control.

20 ASSISTANT GENERAL MANAGER FUA: I don't think  
21 there is a study for that. The -- well, I did state that  
22 I don't believe that, you know, it will impact the state  
23 plan of flood control. But that is just, you know, based  
24 on my, you know, just professional judgment. But if I had  
25 to go to court, you know, I would have to, you know, not

1 say that. And I will request for more studies to make  
2 that conclusion. It's just basically that, you know, the  
3 levee -- I mean the Delta is a huge system of water. And  
4 this is just probably, you know, a drop in the bucket, I  
5 mean when you consider the entire Delta system.

6 BOARD MEMBER BURROUGHS: Yeah, thank you, Dan.

7 But every drop has an impact. And, Lady Bug, I  
8 don't know if you wanted to proceed with your motion.

9 But --

10 SECRETARY DOHERTY: Well, I don't think we have  
11 to know whether or not we're involved or not. We're  
12 involved, but to what degree?

13 BOARD MEMBER BURROUGHS: Yeah. And I think  
14 starting with a letter is the first step. So I move that  
15 we send a letter. And I would like staff to develop the  
16 letter with some of the concerns and questions that have  
17 been presented to us today. And I think that's the first  
18 step that we need to take as a board.

19 So I move we send a letter with the concerns that  
20 have been stated here in the presentation from the  
21 audience as well as the Board today.

22 SECRETARY DOHERTY: Well, I'd like to second  
23 that.

24 PRESIDENT CARTER: Okay. So we have a motion to  
25 send a letter to the County of Contra Costa asking them

1 how they are treating the Bethel Island Municipal  
2 Improvement District.

3 I have a motion and a second.

4 Any discussion?

5 I don't see a huge amount of downside in doing  
6 that.

7 SECRETARY DOHERTY: Then we better vote.

8 PRESIDENT CARTER: All right. All those in favor  
9 indicate by saying aye.

10 (Ayes.)

11 PRESIDENT CARTER: And opposed?

12 BOARD MEMBER BURROUGHS: Can of worms, Butch.

13 VICE-PRESIDENT HODGKINS: It is a real can of  
14 worms.

15 BOARD MEMBER BURROUGHS: I would just like to say  
16 one discussion on this.

17 It is our responsibility in public safety in this  
18 great area. And if we can be the only voice that asks the  
19 question about protecting our precious Delta, then we need  
20 to be the ones asking it.

21 VICE-PRESIDENT HODGKINS: I guess my view is that  
22 there are potentially -- how many lots in this?

23 MS. KIRK: 495.

24 VICE-PRESIDENT HODGKINS: You know, there are  
25 another 400 homes that potentially could go in here that

1 may not be safe.

2           On the other hand, it is a can of worms. And you  
3 know we've got like -- I don't know how many homes people  
4 are proposing to build in the Sacramento and San Joaquin  
5 Valley. And, you know, just looking at the load that's on  
6 our staff now, I'm afraid of starting down the road. I  
7 mean there's no question to me there's going to be  
8 concerns about whether those houses are safe. And maybe  
9 they've all been addressed. I don't know. But to me it's  
10 a diversion of our somewhat limited resources and our  
11 attention in to an area that, while I agree there doesn't  
12 seem to be anybody else looking at it carefully, from a  
13 priority standpoint I'm not sure we can afford to devote  
14 the attention to it that it could potentially take. So  
15 why start?

16           I'm really ambivalent I think, as you can tell.  
17 On one side I hate to see one more house built that's not  
18 safe. On the other hand you could spend six months, you  
19 know, which could potentially be a couple of man-years,  
20 trying to prevent that from happening. And in the  
21 meantime a hundred thousand more get approved and are  
22 built somewhere else in the valley, it was a somewhat of a  
23 misdirected effort. And that's --

24           BOARD MEMBER BURROUGHS: Well, maybe Scott  
25 could -- you had a comment earlier about --

1           STAFF COUNSEL MORGAN: I was just getting up to  
2 close my PowerPoint.

3           (Laughter.)

4           PRESIDENT CARTER: So we are in middle of a vote.  
5 Butch.

6           VICE-PRESIDENT HODGKINS: I'll vote yes.

7           PRESIDENT CARTER: All right. So the motion  
8 carries.

9           SECRETARY DOHERTY: And your vote?

10          PRESIDENT CARTER: 4-0.

11          SECRETARY DOHERTY: It's prickly. I agree with  
12 you.

13          PRESIDENT CARTER: Very good.

14          At this point I'd like to do a process check  
15 here. We have a portion of Item 6 that we continued from  
16 the morning to finish up on, a bond implementation plan  
17 discussion with Mr. Mayer.

18          Is Mr. Mayer here?

19          Yes, he is.

20          We also have Item 16, FEMA -- 16, 17, 18, 19, and  
21 20 here. Time is getting late.

22          What's the Board's pleasure here in terms of  
23 proceeding with the items before us? Do we want to try to  
24 hear them all? Do we want to postpone some?

25          SECRETARY DOHERTY: Well, I think we asked Mr.

1 Mayer to say. So I think we ought to give him the  
2 opportunity.

3 PRESIDENT CARTER: Okay.

4 SECRETARY DOHERTY: He sat here diligently.

5 BOARD MEMBER BURROUGHS: If there are any items  
6 that can be postponed, I think we should consider that as  
7 well.

8 PRESIDENT CARTER: Well, the items that we  
9 have -- the other options are Mr. Pineda's presentation on  
10 the FEMA provisionally accredited levees.

11 And then the Board reports -- four items on the  
12 Board reports.

13 We do have to decide on the January meeting, so  
14 we need to talk about 19.

15 What do we want to -- I guess the biggest option  
16 is to postpone the FEMA discussion to a future meeting.  
17 What would you like to do?

18 VICE-PRESIDENT HODGKINS: I would like to --  
19 let's see if -- we can have Rod go. When he finishes, see  
20 where we are, if we need to dole out enough time to  
21 resolve issues on our agenda. But I'm not sure there are  
22 any other staff with Committee Reports that we need to do  
23 today. And see if we can at least do part of the FEMA.

24 PRESIDENT CARTER: Okay. So with that, we will  
25 try and cram it in.

1           BOARD MEMBER RIE:   Are we shooting for an end  
2   time?

3           PRESIDENT CARTER:   What end time -- yeah, are we  
4   shooting for an end time?

5           We had talked about 3:30.   I know Mr. Mayer has a  
6   meeting at 3:30, so he will be -- he's going to be cutting  
7   his presentation short.

8           So let's take a five-minute stretch here, all  
9   right, to allow people to stretch.   And then we will  
10   reconvene in five minutes sharp.

11           (Thereupon a recess was taken.)

12           PRESIDENT CARTER:   Okay.   Ladies and gentlemen,  
13   we'll go ahead and continue.

14           At this point we're going to continue with Item  
15   6, Report of the Activities of the Department of Water  
16   Resources.

17           And we have Mr. Mayer here to talk about the DWR  
18   activities to formulate a plan for spending bond money and  
19   state plan of flood control.

20           Mr. Mayer.

21           (Thereupon an overhead presentation was  
22   Presented as follows.)

23           DIVISION OF FLOOD MANAGEMENT CHIEF MAYER:   Thank  
24   you, Mr. Carter.   And good afternoon, President Carter and  
25   members of the Board.   I'm Rod Mayer, Chief of the

1 Division of Flood Management. My pleasure to talk to you  
2 and to try to get through our presentation -- it typically  
3 takes a couple of hours -- and to do it far quicker than  
4 that.

5           We've been working for the last several weeks  
6 feverishly to develop plans for how we're going to  
7 implement the bond funds from the two bonds that have been  
8 recently passed by the voters. And part of the work -- a  
9 small part of the work is this PowerPoint presentation  
10 that I'll be showing you in the next few minutes.

11           We believe that is a once-in-a-lifetime  
12 opportunity for a major investment in California's flood  
13 management infrastructure. And the funds must be spent  
14 wisely, carefully, as well as fairly quickly because the  
15 need is great.

16                               --o0o--

17           DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: As you  
18 know, every region of the state faces flood risks, not  
19 just the Central Valley. But in the Central Valley the  
20 risk is the greatest of all. Extensive flooding can occur  
21 even though we have a very visionary system that was  
22 designed about a hundred years ago, and has functioned in  
23 some areas fairly well, in other areas not so well, for  
24 many years.

25                               --o0o--



1           DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: And it  
2 was functioned and designed to pass hydraulic mining  
3 debris. But now that that debris has passed through the  
4 system, the rivers continue to move sediment. And that  
5 means sediment from the banks. And we have serious  
6 erosion problems, among other things.

7                               --o0o--

8           DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: We  
9 also have many homes being built in the floodplains behind  
10 these levees. And these levees continue to age. They  
11 have deficiencies that existed from the day they were  
12 constructed because they were not built to modern  
13 engineering standards, and they've had historic seepage  
14 problems through the levees and especially under the  
15 levees. And that they continue to degrade as they settle  
16 and as other acts of nature take place on these levees in  
17 terms of burrowing rodents and such things.

18                              --o0o--

19           DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: In  
20 addition, other regions throughout the state besides  
21 Central Valley, such as coastal streams, alluvial fans,  
22 they face their own flood challenges.

23           And the Delta levees, as you've just discussed  
24 this afternoon, you know well Delta levees face their own  
25 challenges and they're especially fragile, and they put at

1 risk the state's water supply for 23 million Californians.

2 --o0o--

3 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: So DWR  
4 put out a white paper approximately two years ago drawing  
5 attention to this crisis.

6 --o0o--

7 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: And  
8 some of the goals in that white paper have been achieved.  
9 One of the goals dealt with achieving some sustainable  
10 funding, an infusion of funding to make major investments  
11 in the system. And the two bonds have been a major  
12 milestone achievement.

13 In addition, the Legislature and Governor  
14 supported emergency appropriations, \$500 million that DWR  
15 is currently using to improve the flood control system  
16 statewide, especially in the Central Valley. And levee  
17 repairs and improvement are underway.

18 --o0o--

19 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: And of  
20 course the experience in New Orleans demonstrated the need  
21 for better flood protection and what happens when a major  
22 urban area floods.

23 --o0o--

24 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: There  
25 are a lot of lessons and reminders from that event. Major

1 urban flooding's tragic and deadly. And recovery can take  
2 many, many years, decades.

3 Also environmental systems that once provided  
4 some protection and buffer to the New Orleans area, they  
5 had been degraded over the years; and as a result, the  
6 flood damage was worse than it had to be.

7 There was also a piecemeal approach to flood  
8 management in New Orleans, where one levee system would  
9 butt up against the next one and there would be  
10 discrepancies in levee height, and maybe not good tie-ins  
11 between the two different types of structures. Lots of  
12 failures and distress occurred at such connections.

13 And of course we saw that you cannot overprepare  
14 for a major catastrophe like that.

15 Our floods in 2006, both in January and April,  
16 demonstrated the fragility of our Central Valley system.  
17 We had over 100 incidents we had to respond to. And we've  
18 had hundreds of damaged sites that we've surveyed since  
19 then this summer.

20 And in addition to all that, climate change will  
21 only worsen the situation and increase the flood risks.

22 --o0o--

23 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: So  
24 floodSAFE California is a new DWR-launched initiative to  
25 improve protection for the people of California, with

1 three goals:

2 Reducing flood risk to the people of California,  
3 their homes and property;

4 Secondly, developing a sustainable flood  
5 management system for the future; and

6 Thirdly, reducing the consequences of floods when  
7 they do occur. Because no matter what your design is,  
8 there are floods out there that are bigger than your  
9 design.

10 --o0o--

11 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: What  
12 are the guiding principles for the floodSAFE California?

13 First, flood risk management must be approached  
14 improved on a system-wide basis. You can take into  
15 account land use and flood protection needs in doing so.

16 Secondly, land-use planning needs to be better  
17 connected to flood risk management. No where is that  
18 disconnection so serious as in the Central Valley where  
19 the state has Paterno liability and essentially no say  
20 over land use behind the levees.

21 Thirdly, regional coordination's essential to  
22 improve the flood protection in a region.

23 Fourth, in the face of climate change, the flood  
24 systems must be flexible and strong or resilient in order  
25 to be sustainable. They need to be able to accommodate

1 increased peak flows as a result of having warmer storms,  
2 less snowpack.

3 Projects that offer multiple or regional benefits  
4 will be more desirable.

5 And, sixth, information about flood risks will  
6 help those that live in the floodplains and those who make  
7 decisions about land use in the floodplains to make better  
8 decisions.

9 --o0o--

10 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: So  
11 what are the elements of the program? We need to work  
12 with the various federal, state, and local partners to  
13 establish clear roles. An example of one type of activity  
14 that stands out where there's a lack of clarity about the  
15 roles would be bank protection. Local reclamation  
16 districts in the Central Valley typically say bank  
17 protection isn't their responsibility. It's the state's.  
18 And we at state think, "No, it's not our responsibility.  
19 It's the local responsibility. They're to maintain the  
20 levees." We need to clarify those roles and get a common  
21 understanding and work together to solve them. There are  
22 other such situations.

23 Secondly, we need to evaluate the levees and  
24 delineate the floodplains behind them to understand the  
25 level of flood risk. What are the boundaries of those

1 floodplains? How deep does the flooding get? What's the  
2 frequency of that flooding and the level of flood  
3 protection?

4           Thirdly, we need to identify those areas that are  
5 imminent risk of failure, critical sites, and repair those  
6 facilities.

7           Fourth, repair and improve the urban levees,  
8 providing a high level of protection. And we think 200  
9 year minimum is the appropriate standard.

10           Fifth, repair and improve the rural levees to  
11 their design level or to base level protection. And in so  
12 doing, continue the agricultural open space and  
13 floodplains that are out there, and not promote  
14 urbanization of those rural floodplains.

15           Sixth, prioritize projects to make those  
16 improvements quickly where we can, using the funds wisely,  
17 fitting into a bigger vision that we need to develop.

18           Seventh, we need to pursue reforms. We need to  
19 increase federal involvement. Federal involvement really  
20 needs to step up. And there are a number of reforms that  
21 may be undertaken and DWR is exploring. And they will  
22 take legislation back in Congress to achieve them. But by  
23 doing so, the intent is to step up the federal  
24 involvement, federal interest in the Central Valley flood  
25 system, the Delta levees, and state water. Need to better

1 connect land use and flood management, as mentioned  
2 earlier. We need to develop appropriate cost sharing  
3 rules, because we're operating under a different paradigm  
4 now than what we historically operated in terms of how we  
5 build projects and how we might cost share them. And we  
6 need to ensure that when we're making these improvements,  
7 that there's going to be adequate long-term maintenance.

8 --o0o--

9 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER:

10 Eighth, we need to employ new or enlarged flood  
11 bypasses and corridors and flowage easements and setback  
12 levees and floodplain storage wherever it's feasible to do  
13 so in the regional improvements schemes.

14 Ninth, we need to establish conservation banks or  
15 mitigation banks to expedite mitigation and project  
16 construction and maintenance.

17 Ten, devise and coordinate reservoir operation,  
18 enhancing the level of protection in the valleys below.

19 And, eleventh, provide information to communities  
20 in households on flood risk and how to reduce or avoid it.

21 --o0o--

22 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: So we  
23 have a vision. That vision is that the state itself will  
24 take the lead on many elements, such as:

25 The levee evaluations, which we are conducting

1 right now. We are out drilling levees. We will drill  
2 many, many thousands of holes and do engineering analysis  
3 on the many thousands of samples that are taken to  
4 evaluate the adequacy of the levees and find the defects  
5 and develop repair designs and improvement designs.

6 We need to improve the reservoir operations. The  
7 state should take the lead in that.

8 We need to delineate the floodplains. Again, the  
9 state should take the lead in that.

10 And the state should take the lead in developing  
11 a new California flood plan. And we think a statewide  
12 plan is needed that identifies policies and facilities  
13 needed to implement the floodSAFE initiative.

14 And we need to do this working with our local and  
15 regional partners. We need to provide funding so that  
16 regional integrated flood management plans can be  
17 developed at a grassroots level by the local agencies,  
18 with guidance from the state and assistance from the  
19 state, and have those plans feed into an overall bigger  
20 vision and be incorporated into the California Flood Plan.

21 We need to move quickly to facilitate development  
22 of the regional plans and to fund the early actions that  
23 appear consistent with the vision that we have for the  
24 state goals and principles, especially in the Central  
25 Valley.



1 --o0o--

2 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: So  
3 this plan will be developed over time. And we'll do it in  
4 a collaborative manner with local agencies and our  
5 stakeholders and partners. And it will include the  
6 following elements:

7 Determination of bond priorities and  
8 expenditures.

9 It will include an update of the State Plan of  
10 Flood Control for the Central Valley. There is a State  
11 Plan of Flood Control for the Central Valley. But it  
12 exists in many places at this time. We consolidated it  
13 into a single report. And we need to update that to lay  
14 out the broader vision of where we need to go next and  
15 what investments we need to make.

16 The California Flood Plan would also deal with  
17 Flood Control Subventions Program and any reforms needed  
18 for that, the statewide investment in federal projects;  
19 the Delta levees as well; and grant programs to local  
20 agencies statewide.

21 There are a number of current programs that are  
22 related to this. I think you're very well aware of every  
23 one of them, so I won't touch to them.

24 --o0o--

25 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: The

1 project funding will focus on facilities that have an  
2 imminent risk of failure. This is, the critical repairs  
3 that are needed. The repairs are improvements that are  
4 needed for 200-year protection for urban areas and those  
5 that restore base level protection for the rural areas.  
6 Those that contribute to improved regional flood  
7 protection. So those that -- those facilities or  
8 improvements that can provide regional benefits such as in  
9 some cases setback levees or new bypasses. Those are the  
10 types of facility improvements that we would very much  
11 encourage. And those that increase sustainability of the  
12 system and make it easier to maintain.

13 --o0o--

14 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: This  
15 is a slide showing the funding categories. I think you're  
16 fairly familiar with these. The big pot of money, which  
17 has a number of restrictions on it, is the 3 billion pot  
18 in Prop 1E for the Central Valley Flood Control System.  
19 Not only the state and federal levee system that's part of  
20 the State Plan of Flood Control, but also the Delta  
21 levees.

22 Now, that pot allows for improvements in urban  
23 areas as well as repairs in urban areas. And it allows  
24 for repairs in non-urban areas. What it does not allow is  
25 improvements in non-urban areas. And there's a definition

1 in the bond of what an urban area is. It's an area that  
2 if the levee were to fail, 10,000 people would flood.

3 There's also some accounts here that are rather  
4 small by comparison, but they do provide flexibility to  
5 make improvements wherever statewide. There's a \$275  
6 million account in Prop 84 that does that, as well as a  
7 290 million account in Prop 1E that allows for that.

8 There's also a smaller \$40 million account in  
9 Prop 84 with a great deal of flexibility statewide.

10 --o0o--

11 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: Now,  
12 we think that it would be wise to pursue a two track  
13 system, as I mentioned; develop a new strategic plan; and  
14 at the same time fund early implementation projects.  
15 Because there are projects out there ready to go now, and  
16 there will be others following soon where areas are highly  
17 motivated to increase their level of flood protection and  
18 simply need the funds to do so. And we think it would be  
19 appropriate to fund them provided they're going to fit  
20 into the longer vision.

21 --o0o--

22 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: So  
23 here are criteria that we've identified that we think are  
24 appropriate for funding these early implementation  
25 projects in the Central Valley on the state and federal

1 system.

2 First, it's ready for implementation. So it  
3 actually needs the money and it can use it when it gets  
4 the money.

5 Secondly, it will significantly enhance public  
6 safety or reduce state liability.

7 Third, projects economically feasible or  
8 economically justified.

9 Fourth, if the project will protect an existing  
10 urban area, then it needs to fit into a strategy for  
11 achieving 200-year protection or higher for that area.

12 --o0o--

13 Next, if the project will protect a non-urban  
14 area, it restores base level flood protection, that's the  
15 level that we are on the hook for under the Paterno  
16 decision. What we need are the levees to pass the base  
17 level floods. And in the non-urban areas we want to  
18 restore that base level protection and at the same time  
19 preserve the rural values in the protected area.

20 --o0o--

21 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: If the  
22 project would improve the levee in place, it's clear that  
23 it's not feasible to move the levee and set it back. And  
24 there would be very few, if any, significant flood control  
25 benefits to moving the levee.

1           And the project takes advantage of any feasible  
2 opportunities to provide additional room for the river to  
3 meander, such as a setback levee, which in turn enhances  
4 channel capacity, reduces maintenance needs, and provides  
5 regional benefits, often by lowering the stage on  
6 neighboring levees outside of the specific benefited area  
7 where the investment is being made.

8           We think the local agency needs to have a sound  
9 financial strategy to fund its cost share to build the  
10 project and then be able to adequately maintain it. And  
11 the agency should be providing a detailed emergency  
12 response plan acceptable to the department.

13                               --o0o--

14           DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: We  
15 have a few other criteria that have occurred to us that we  
16 think are highly desirable but probably shouldn't be  
17 required. First, that the project would be eligible for  
18 federal cost sharing or crediting or reimbursement; and  
19 that there'd be broad local support and agency support for  
20 the project, that that agency has a good record of  
21 maintenance. And this is the one that's very  
22 controversial, that the land use agencies benefiting from  
23 the project agree to indemnify and hold harmless the  
24 state.

25                               --o0o--

1           DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: This  
2 is my last slide. And this shows the schedule that we  
3 envision for many of the activities that are upon us.  
4 Some of them are actually underway at this point. So I'll  
5 start at the top.

6           Evaluations of the urban levees. This is the  
7 drilling in the engineering analysis. This is already  
8 underway. So it's approximately 300 miles of urban levees  
9 that we have in the Central Valley. And we're using AB  
10 142 funds for that.

11           Next up will be the evaluations for the non-urban  
12 levees. We think that will take a couple of years longer  
13 because there are over 1200 miles of such levees. And we  
14 also believe that there's need statewide to do this. And  
15 so we would propose from the bond funding that some money  
16 be invested statewide on a cost-shared basis, helping  
17 various regions to perform their levee evaluations.

18           As you know, there's a dream study underway. Its  
19 results are scheduled for about a year from now. And  
20 there's a Delta Vision underway as well, which will go a  
21 bit longer. Those two will provide much guidance to us on  
22 how we invest bond funds in to the Delta.

23           We need to develop regional flood plains and we  
24 need to do it on a statewide basis. We need to do it as  
25 part of the updating of the State Plan of Flood Control

1 for the Central Valley. And to fund the local flood  
2 management agencies in the Central Valley to do this work  
3 with us. And outside of the Central Valley there's a need  
4 for that activity as well. And that should be funded from  
5 the bond.

6 We also would feed that information that comes  
7 out of those flood plans into the California Flood Plan,  
8 which we envision is taking about four years on the  
9 schedule, maybe five years. And we would have early  
10 implementation projects going at least the first couple of  
11 years, maybe a little bit longer depending upon progress  
12 in the California Flood Plan and this updated State Plan  
13 of Flood Control. And after that we would have the longer  
14 term projects that clearly fit into the vision that we  
15 established as a result of the updated State Plan of Flood  
16 Control.

17 That concludes the presentation. Are there any  
18 questions about this?

19 And I should say that we have had stakeholder  
20 meetings throughout the week, at which I know that your  
21 Board members were invited, although it was short notice,  
22 I know.

23 And our final stakeholder meeting will be on  
24 Monday, where we'll be meeting with various agency  
25 representatives. We received lots of input, and that's

1 the reason for the meetings, to put out here what we've  
2 been thinking and see if these thoughts are well received  
3 or not well received, if there are other ideas that we  
4 should be considering, and taking into consideration as we  
5 go forward from here.

6 I'd be very interested in any thoughts that the  
7 Board would have as well.

8 SECRETARY DOHERTY: I know that it's a  
9 collaborative effort of many people. But I think it's  
10 rather exciting at this stage to be proactive rather than  
11 reactive.

12 I think the drilling -- I think it's going to  
13 tell us a lot of things. I think it's rather exciting.

14 PRESIDENT CARTER: Teri.

15 BOARD MEMBER RIE: Is there any plans as part of  
16 this process to look at the overall State Maintenance  
17 Plan? You know, DWR is maintaining some of the levees and  
18 then we have the reclamation districts maintaining levees.  
19 And they often complain that they don't have enough  
20 funding or they can't raise assessments because of Prop  
21 218.

22 Are you having any discussions with the  
23 stakeholders on those type of issues?

24 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER:

25 Absolutely the Proposition 218 issue comes up at



1 every meeting. That is one of those fundamental topics  
2 that does need to be covered in any California flood plan.  
3 It doesn't do much good to invest billions of dollars and  
4 then not have adequate funding to maintain what you've  
5 constructed. So that has to be addressed.

6 And of course, as you know, the Department in its  
7 white paper proposed reforms to Prop 218, the exception  
8 for flood control. That hasn't progressed very well with  
9 the Legislature, however. People continue to bring it up.  
10 Maybe ACA13 will be put through in different form and get  
11 through the Legislature. That remains to be seen.

12 BOARD MEMBER RIE: Does the state currently have  
13 an adequate budget for maintenance with the increased  
14 revenues and the greater emphasis on flood control? Are  
15 you guys up to date on covering everything?

16 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: I  
17 would say we're in much better shape than we've been in a  
18 long time. We're not quite there. We do have a budget  
19 proposal that will be made public on January 10th, which  
20 would increase funding for maintenance of the state's  
21 system.

22 BOARD MEMBER RIE: The same thing would apply to  
23 the state, you know, if we're making all these repairs,  
24 especially the emergency repairs. You know, we have to  
25 make sure we have that adequate funding for maintenance

1 year after year. And it can be cut in the bad years.

2 So is there any efforts to do the same thing with  
3 flood control that we've done with transportation, some  
4 sort of guaranteed funding level year to year?

5 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: Well,  
6 it's not possible to get those types of guarantees from  
7 what we've seen. But we certainly do have a lot of public  
8 support and legislative support and administration support  
9 for funding of maintenance. And so I think you'll  
10 continue to see budget augmentations. And I can't say  
11 much more about it until January 10th when it's out.

12 But DWR did put forth a couple of years ago a  
13 three-year strategic budget proposal. And so we're about  
14 to see the third year of it, which should bring us about  
15 the level we need to be for the state and federal levees  
16 maintained by Department of Water Resources and the  
17 channels maintained by the Department of Water Resources.

18 It doesn't do a lot to address the reclamation  
19 district funding needs, however. And that's the issue you  
20 discussed earlier. Prop 218 will really be the key to  
21 that one, finding a way to reform it.

22 BOARD MEMBER RIE: Okay. I didn't get a chance  
23 to attend any of the stakeholder meetings. But my input  
24 would be, look really carefully at the maintenance plans,  
25 both at the state level and at the reclamation district

1 level, five years out, ten years out, because if we invest  
2 \$4 billion or maybe more -- I don't know if there's  
3 another bond measure coming up in a few years -- it's not  
4 going to do any good if we don't have a guaranty of  
5 maintenance for the next 50 years.

6 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: That  
7 sounds like you certainly would endorse then one of the  
8 criteria we have for early implementation projects, which  
9 that there'd be demonstrated funding to maintain what is  
10 constructed.

11 BOARD MEMBER RIE: Okay.

12 BOARD MEMBER BURROUGHS: I have one comment.

13 Mr. Mayer, I enjoyed your presentation today very  
14 much. I appreciate your hard work in all that you do.

15 I had two comments. One is, I didn't hear any  
16 specific language in regards to flooding in and the  
17 protection of drinking water.

18 And also I'm not sure about education, but I have  
19 a concern that sometimes we discount rural areas. And I  
20 just think that it is a very important aspect of our whole  
21 system. Because while we may not declare them as  
22 designated floodways, the ability to have agricultural  
23 land flood sometimes is what is protecting the urban  
24 areas.

25 And those were just two points I had. Thank you.

1           DIVISION OF FLOOD MANAGEMENT CHIEF MAYER:  Thank  
2  you.

3           VICE-PRESIDENT HODGKINS:  Well, Rod, I think  
4  you've done an incredible job, particularly in the short  
5  time since the bond passed.  And I don't have any specific  
6  comments.  A couple of questions.

7           Should we assume that the State Plan of Flood  
8  Control has to cost \$4 billion dollars or less?  Or is  
9  your thinking that if the state's plan costs more than 4  
10 billion, that that's okay, we have to identify that and  
11 get it on the radar screen and figure out how to fund it?

12          DIVISION OF FLOOD MANAGEMENT CHIEF MAYER:  The  
13 latter.

14          VICE-PRESIDENT HODGKINS:  Good.

15          DIVISION OF FLOOD MANAGEMENT CHIEF MAYER:  
16 Clearly the latter.

17          VICE-PRESIDENT HODGKINS:  Good.

18          DIVISION OF FLOOD MANAGEMENT CHIEF MAYER:  Not  
19 only the State Plan of Flood Control for the Central  
20 Valley, but the California Flood Plan.  These bonds are  
21 huge, but they're nowhere near the need.  And our message  
22 has been, for over a year now, the need out there is well  
23 over \$10 billion.  And that doesn't include many of the  
24 statewide regional areas that we really haven't looked at  
25 very hard.  Which when we do, I suspect we will find a

1 much greater need.

2 VICE-PRESIDENT HODGKINS: One other one.

3 200-year. We had a comment earlier today from  
4 somebody who was urging us to think about 500-year. The  
5 200-year, is that likely to be sort of the defined  
6 standard or a stepping stone, or have you thought at all  
7 about that?

8 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: One of  
9 the first goals that I mentioned was to deal with the  
10 consequences of floods larger than design. So at least in  
11 my mind I think it's very prudent in the urban areas to  
12 not only have a 200-year minimum design, but if you can  
13 justify it, certainly go higher. But in addition, have  
14 redundancy in your system or other features that will  
15 prevent the catastrophic levee failures that can occur and  
16 they become a 500-year flood.

17 So at least that's in my mind. I think that's in  
18 the mind of other folks. It isn't really detailed in here  
19 though, other than just that third goal that I mentioned.

20 I would also add that that 200-year mark that we  
21 kind of laid out as at least our vision is very  
22 controversial. There are a lot of folks that have  
23 commented this week that maybe 100-year really is the more  
24 appropriate standard, considering that we don't have  
25 enough money to do everything, so money can be spread a

1 little bit farther if we provide 100-year protection.

2           We haven't found that to be a very compelling  
3 argument, thinking that it's much better to work towards  
4 200 and keep 200 as the minimum. One can achieve 100 on  
5 their way to 200, and that's encouraged. And then I think  
6 Sacramento area is very much the model for that. But we  
7 don't think it would be appropriate to stop at 100 so that  
8 some other area could go use the money to get to 100.

9           VICE-PRESIDENT HODGKINS: All right. I concur  
10 with that. But I don't suspect that's a surprise.

11           PRESIDENT CARTER: Mr. Mayer, what is the time  
12 horizon that the State Plan of Flood Control or this  
13 California Flood Plan -- I'm not sure I know the  
14 difference -- what are they contemplating? Is this plan  
15 for 10 years, is this plan for 100 years? And is there a  
16 vision that's going to be articulated in either one of  
17 these plans of what the system's going to look like when  
18 they completed the plan?

19           DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: Well,  
20 the updated State Plan of Flood Control should articulate  
21 a vision for the Central Valley Flood Control System, the  
22 state-federal facilities for which the Reclamation Board  
23 has provided assurances to the Corps about operations and  
24 maintenance. That would be the updated State Plan of  
25 Flood Control. And that's where we would be looking to do

1 things such as construct levee improvements for urban  
2 areas, restore base level to the rural areas, look for  
3 opportunities for new bypasses and setback levees, and  
4 take advantage of them wherever we can find them and  
5 implement them.

6           The California Flood Plan is bigger than that.  
7 And the State Plan of Flood Control is a piece of it,  
8 along with the Delta Vision, because the California Flood  
9 Plan will address the entire state.

10           And the final slide kind of shows a schedule. It  
11 doesn't show the schedule for development of the new State  
12 Plan of Flood Control, but it needs to fit within the same  
13 timeframe as the California flood plan. So we're thinking  
14 four years at this point, which means you need about three  
15 years to be at the point where you've completed your  
16 integrated regional flood management plans that feed into  
17 in the Central Valley the State Plan of Flood Control.

18           PRESIDENT CARTER: I was thinking of development  
19 timeframe. I was thinking of, what is the timeframe of  
20 this plan? I mean what's the time horizon envisioned by  
21 the plan?

22           DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: Well  
23 we haven't fleshed that out yet, but it's long term.  
24 We're thinking much longer term than what these bonds'  
25 life will be. Prop 84 is available for five years and

1 Prop 1E is available for ten years. We're thinking much  
2 longer than that. And it's very likely at the end of the  
3 day that we will identify much greater needs than any of  
4 these bonds could fund. And so there will be need for  
5 more funding to implement the longer-term vision that  
6 we're going to establish.

7 PRESIDENT CARTER: But you haven't decided on  
8 what that --

9 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: No, we  
10 haven't said it will be a 50-year plan or a 100-year plan  
11 or a 20-year.

12 PRESIDENT CARTER: Thank you.

13 Any other comments, questions?

14 We thank you very much for taking the time out to  
15 come and brief us on this. The Board is obviously very  
16 interested in particular the State Plan of Flood Control,  
17 but all of it, and is anxious to participate, I think.

18 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: Well,  
19 you're very welcome. And we have had periodic planning  
20 meetings. Jay Punia is invited to participate in them.

21 PRESIDENT CARTER: That's great. Thank you.

22 Okay. At this point we have Item 16, FEMA  
23 Procedure Memorandum 43, Provisionally Accredited Levees.

24 Mr. Pineda.

25 FLOODPLAIN MANAGEMENT BRANCH CHIEF PINEDA: Good



1 afternoon, President Carter. My name, for the record, is  
2 Ricardo Pineda. I'm with the Division of Flood  
3 Management, Floodplain Management Branch.

4 In the Board package I provided Lorraine folders  
5 for the Board members that incorporate documents that I  
6 pulled off the FEMA website and in various meetings that I  
7 recently had with FEMA about map modernization related to  
8 levees. And I have a box of these folders with the  
9 documents in the back of the room near the sign-in for  
10 anybody in the audience who would like a copy.

11 Dave, could you give me a hand.

12 My focus discussion is going to be on Procedure  
13 Memorandum 43. But I'm going to --

14 SECRETARY DOHERTY: Thirty-four or 43?

15 FLOODPLAIN MANAGEMENT BRANCH CHIEF PINEDA:

16 Excuse me?

17 Thirty-four or 43?

18 Forty-three. But I did include in your package a  
19 copy of 34.

20 (Thereupon an overhead presentation was  
21 Presented as follows.)

22 FLOODPLAIN MANAGEMENT BRANCH CHIEF PINEDA: I'd  
23 like to start off my presentation by just saying PM-43 and  
24 PM-34 are a part of FEMA's map modernization program. And  
25 Let me just go through a little bit of that and bring you

1 up to date.

2 PRESIDENT CARTER: Will you be able to do this in  
3 a relatively brief time?

4 FLOODPLAIN MANAGEMENT BRANCH CHIEF PINEDA:

5 Absolutely. No more than ten minutes.

6 PRESIDENT CARTER: Thank you.

7 FLOODPLAIN MANAGEMENT BRANCH CHIEF PINEDA:

8 PM-43, 34, part of FEMA's map mod -- map  
9 modernization is part of the National Flood Insurance  
10 Program. And the National Flood Insurance Program is the  
11 nation's primary form of nonstructural flood management to  
12 reduce flood damages throughout the country without  
13 building large projects.

14 The NFIP started in the 1960s when private sector  
15 insurance companies were not able to figure out the risk  
16 and thus charge the appropriate insurance rate for  
17 flooding. So the Housing and Urban Development Agency  
18 came in and established the NFIP, that was subsequently  
19 turned over to FEMA.

20 There are three main elements to the NFIP:

21 Affordable flood insurance for properties located  
22 within 100-year flood plains identified by FEMA. So the  
23 affordable insurance regulated -- I'm sorry -- community  
24 building code regulations that dictate how structures are  
25 built within 100-year floodplains. And the primary

1 regulation is that the first floor be elevated against  
2 higher than -- at least equal to or higher than the  
3 expected 100-year water surface. So where that 100-year  
4 water surface is about 2 feet, that's doable; where it's  
5 50 feet, that's not really doable.

6           The next element of the three are accurate flood  
7 insurance rate maps, referred to as FIRMs, flood insurance  
8 rate maps, that depict the boundaries of the 100-year  
9 flood plain. And that's where FEMA's map mod process --  
10 that's where FEMA's map mod process comes in. Many of the  
11 existing flood insurance rate maps throughout the  
12 country -- and there are 20,000 communities throughout the  
13 United States that participate in the NFIP -- are 20 to 30  
14 years old. In many of those flood insurance rate maps,  
15 levees are shown as the boundary of the 1 percent flood  
16 event or the hundred-year flood.

17           We know that many of those levees never really  
18 went through the engineering analysis to definitively  
19 prove that they protect against the 1 percent flood. And  
20 we know that many of those levees in the flood of the  
21 early part of the nineties in the Mississippi failed. We  
22 know that we've had levee breaks on our levees on the Yuba  
23 River and the Feather River. And then of course we've had  
24 the recent Katrina disaster.

25           So in August of 2005, the Director of the Flood

1 Insurance Administration, David Maurstad of FEMA, issued  
2 PM-34. It essentially says we're updating these maps  
3 throughout the country. Levees are a part of those maps  
4 in many cases. And if the community wants to see that  
5 levee recognized as the boundary of the 1 percent flood,  
6 the 100-year flood, it has to provide all the  
7 documentation that's required in the FEMA regulations, 44  
8 CFR 6510, the height of the levee, engineering analysis  
9 for the structural integrity of a levee, and for its  
10 foundation and many other factors that I have outlined in  
11 PowerPoint presentations in your package.

12           That set levee owners and communities on edge  
13 throughout the country because in many cases the  
14 documentation doesn't exist. The Corps of Engineers  
15 throughout the country with its -- I believe there are 38  
16 Corps district offices have built and in some cases  
17 operate and maintain many of the levees. And even with  
18 the Corps of Engineers there isn't the sufficient  
19 documentation.

20           So FEMA's been adjusting the program since then.  
21 And in reaction to the response of the stakeholders  
22 throughout the country, in September 2006 FEMA issued  
23 Procedure Memorandum 43 along with the Corps of Engineers'  
24 memorandum that kind of said, "Let's give a break. Let's  
25 give a two-year window to communities that operate and

1 maintain non-Corps of Engineers levees and Corps of  
2 Engineers levees that potentially provide protection  
3 against the 100-year event." And they laid out five  
4 scenarios, scenarios A through E. And I'll just quickly  
5 go through that. And it gives you a last update on where  
6 we stand with map mod relative to the changes implemented  
7 by 34 and -- memos 34 and 43.

8           In scenario A it's not a Corps of Engineer levee.  
9 So you can call it a private levee or a local levee. It's  
10 shown on a flood insurance rate map, a FIRM, as providing  
11 a hundred year protection. There's no major structural  
12 work that needs to be done other than normal operations  
13 and maintenance. And it's essentially performed well  
14 throughout its life.

15           And in this case FEMA's going to review the data.  
16 And if the community asks for PAL status for that levee --  
17 so these would be like some of the levees in the Delta and  
18 in southern California and the Bay Area -- FEMA  
19 essentially would grant the two-year window for the  
20 community to provide that data.

21           So on preliminary maps FEMA would show that that  
22 levee still provides 1 percent protection. And after two  
23 years if the community doesn't provide the supporting  
24 documentation, the map would be changed and that -- and  
25 the floodplain would be much bigger, essentially saying

1 that, "Okay, we gave you a two-year window. You didn't  
2 prove the case. And now the floodplain's going to be  
3 bigger. We're not crediting the levee."

4 The remainder of the scenarios B, C, D, and E are  
5 for Corps of Engineers levees in the PL 84-99 system. So  
6 can say that the 1600 miles of levee that the Reclamation  
7 Board has jurisdiction over and has signed assurance  
8 agreements with the Corps fall under these scenarios.

9 In scenario B the levee is essentially shown as  
10 providing protection against the 100-year flood on  
11 existing maps. The levee has performed well. And the  
12 Corps of Engineers generally has enough data to say that  
13 the levee's safe.

14 These levees under scenario B are potentially  
15 eligible for PAL status if the non-federal sponsor, in  
16 this case the Reclamation Board working with DWR in the  
17 local community, asked that of the Corps of Engineers  
18 after the Corps of Engineers does its initial assessment.

19 So scenario B are levees that have performed well  
20 and currently are shown as providing protection.

21 Scenario C are levees where the Corps's  
22 inspection program, called RIP, Rehabilitation Inspection  
23 Program, essentially say that the levee inspections by the  
24 Corps show that the levees have an inspection rating of  
25 fair, poor or unacceptable. These levees also are

1 shown -- under this category are shown as providing  
2 protection against the 100-year event.

3 Under scenario C we kind of have the double  
4 whammy. FEMA says these levees because the Corps says  
5 that they've performed -- or that their maintenance  
6 through their inspection program is fair, poor or  
7 unacceptable are not eligible for PAL status, provisional  
8 accreditation, the two-year window. And in addition the  
9 Corps of Engineers is going to remove them from the PL  
10 84-99 program. So they no longer will be available -- or  
11 eligible for emergency repairs and rehabilitation after a  
12 flood event. That's a pretty major issue that I think we  
13 should address to the Board and give you the status on how  
14 many reaches of levee in our 1600 miles fall under  
15 scenario C. Because that's one that kind of -- when we  
16 read the documentation and the memos, was kind of a  
17 surprise and we didn't get much of a warning.

18 Under scenario D, these are levees that are in  
19 the Corps of Engineers system and are not shown on  
20 existing flood insurance rate maps as providing a  
21 hundred-year protection. There are levees in the Delta  
22 and significant number of Reclamation Board project levees  
23 in the San Joaquin system and some in the Sacramento  
24 system that currently do not show as -- showing that they  
25 provide protection against the 100-year event on current

1 FEMA maps. So in the PAL process, they will not be  
2 offered the two-year window.

3           The last scenario, scenario E, are also levees  
4 that -- corps of Engineers levees where there's a  
5 non-federal sponsor, and in our case the Reclamation  
6 Board. They're showing as providing protection against  
7 the 100-year event on existing FEMA maps. But in the  
8 Corps national levee inventory, which is a new program the  
9 Corps has underway, that inventory database through  
10 reviewing records of the Corps states that these levees  
11 are unacceptable because there is available data showing  
12 that there's a deficiency -- a structural deficiency  
13 that's more than operations and maintenance or that they  
14 have performed poorly during recent flood events.

15           So under scenario E these levees would not be  
16 eligible for PAL status. In discussions that I have had  
17 and other members -- staff from DWR have had with the  
18 Corps of Engineers' Sacramento district, because we don't  
19 have sufficient geotech data, except for certain reaches  
20 along the Sacramento River near Sacramento and along the  
21 American River near Sacramento, there probably aren't  
22 going to be very many, if any, project levees of the 1600  
23 miles of levees that are eligible for the PAL status.  
24 That means the two-year window not to be decertified in  
25 FEMA's map mod.



1           So that kind of tells you memo 43, and I  
2 explained memo 34, provide us the certification. Let me  
3 give you a very, very quick update of where FEMA stands in  
4 map mod.

5           We've heard bits and pieces. It's a five-year  
6 program, \$1 billion, started in 2000 -- federal fiscal  
7 year 2003, scheduled to end at the end of federal fiscal  
8 year 2008. Its goal is to change the paper maps to a  
9 digital GIS map with multiple layers, the communities  
10 could add transportation systems and other types of  
11 hazards as GIS layers.

12           The current process right now is that -- for the  
13 Central Valley levees, the project levees, is that FEMA is  
14 currently having stakeholder meetings. They've had them  
15 with elected official -- or Congressional officials in the  
16 San Joaquin. They are now having them with communities in  
17 the San Joaquin Valley. And by the end of federal fiscal  
18 year '07 -- that's September '07 FEMA's going to put out  
19 preliminary new flood insurance rate maps. Those are not  
20 effective. Those are preliminary. And within one year  
21 those maps will be converted to effective regulatory maps  
22 that then the communities need to abide by in their  
23 land-use regulations.

24           So what will we see at the end of 2008 if FEMA  
25 follows the schedule? There will be new maps essentially

1 showing -- for our project levees showing floodplain --  
2 hundred-year floodplains much bigger than what we show  
3 now.

4           On the Sacramento system -- and this has to do  
5 with funding and timing -- outreach to communities will  
6 begin in late '07. And in federal fiscal year '08 -- by  
7 the end of federal fiscal year '08, that's September of  
8 2008, preliminary maps will come out and those maps will  
9 be converted to effective or regulatory maps by the end of  
10 2009.

11           DWR has a flood plain mapping program that's  
12 occurring in parallel with FEMA's program. And Rod Mayer  
13 mentioned that, that it's very important to get the  
14 floodplains appropriately delineated so that can affect  
15 land-use decisions. And we will have detailed flood plain  
16 studies for the hundred-year floodplains and other flood  
17 layers -- or other flood events larger than 100 year. Our  
18 maps will probably be done probably in three years from  
19 this spring. And our maps will be much more detailed than  
20 the FEMA maps, and they will replace the FEMA maps as the  
21 new regulatory digital flood insurance rate map.

22           So that's a lot of information in a short amount  
23 of time. You can review the material in this folder at  
24 your leisure. It's pretty readable. Sometimes you got to  
25 read those scenarios a couple times to kind of digest

1 them. I'm happy to come back when there's more time and  
2 ask if there are more specific questions. And I'm happy  
3 to entertain any questions that you have, President Carter  
4 or any other member of the Board.

5 BOARD MEMBER BURROUGHS: Mr. Carter?

6 PRESIDENT CARTER: Teri first.

7 BOARD MEMBER RIE: Are you planning to get the  
8 entire drainage district done in three years?

9 FLOODPLAIN MANAGEMENT BRANCH CHIEF PINEDA: Well,  
10 we hope -- our goal is once we launch the program we'll  
11 have updated flood insurance rate maps for the areas  
12 protected by our 1600 miles of project levees within five  
13 years. But we hope to roll out our first products in  
14 three years.

15 BOARD MEMBER RIE: For the entire 1600 miles?

16 FLOODPLAIN MANAGEMENT BRANCH CHIEF PINEDA: Yes,  
17 that's correct.

18 BOARD MEMBER RIE: That's pretty ambitious.

19 FLOODPLAIN MANAGEMENT BRANCH CHIEF PINEDA:

20 That's pretty ambitious. It's -- once you  
21 complete a map also it can take a year to two years to  
22 process it through the FEMA process, as we're doing right  
23 now for flood insurance rate maps in Sutter and Yuba  
24 County that DWR did with the Corps of Engineers.

25 BOARD MEMBER BURROUGHS: Yes, that was kind of my

1 next question.

2           So under this scenario with this five-year  
3 program, the preliminary report being out, if the  
4 information changes, will you be able to change that as  
5 the maps will become permanent a year after the  
6 preliminary map is out?

7           FLOODPLAIN MANAGEMENT BRANCH CHIEF PINEDA: Okay.  
8 There are actually two programs:

9           FEMA's map mod program that will put effective  
10 regulatory maps out at the end of federal fiscal year '08  
11 and at the end of federal fiscal year '09, but they won't  
12 be very accurate, where the levees are being discredited.

13           DWR's program will follow a couple years later  
14 with more detailed maps of those same areas. And the  
15 question is is can we change the maps if better  
16 information comes or after we make -- say we make  
17 improvements to urban areas or rural areas that meet the  
18 hundred-year status. Those potential changes to the maps  
19 to make the floodplains smaller or make them bigger,  
20 depending upon what the case, will be a lot easier in the  
21 digital environment as compared to the old paper  
22 environment. So supposedly, according to FEMA, that's why  
23 they're moving to this digital method. It will be much  
24 easier and faster to change maps.

25           BOARD MEMBER BURROUGHS: Thank you.

1           PRESIDENT CARTER: Butch.

2           VICE-PRESIDENT HODGKINS: Ricardo, is anybody  
3 doing topo to these maps? Are you doing topo?

4           FLOODPLAIN MANAGEMENT BRANCH CHIEF PINEDA: FEMA  
5 is not doing topo. But part of our plan for our current  
6 estimate of a \$120 million program is that we will have  
7 to -- to do the hydraulic studies in the flood plain we  
8 will need to develop updated digital elevation models or  
9 digital terrain models, using a conglomerate of new topo  
10 and existing topo the communities may have. And we have  
11 to do that now to the 1988 data that FEMA has I guess  
12 worked with USGS to establish. So datums are going to be  
13 changing too.

14          VICE-PRESIDENT HODGKINS: Good.

15          PRESIDENT CARTER: Any other questions for Mr.  
16 Pineda?

17          Thank you very much. I apologize for the short  
18 time.

19          FLOODPLAIN MANAGEMENT BRANCH CHIEF PINEDA:

20          That's no problem.

21          PRESIDENT CARTER: Lots of material.

22          Okay. Moving on.

23          Any burning Board comments, task leader reports?

24          I just have one comment. The Board may want to  
25 consider at a future meeting kind of revisiting the

1 Board's delegation to the General Manager for emergency  
2 repairs. The scope of that effort has become much larger  
3 than what we had envisioned. And so that may be something  
4 that we want to revisit in the near future.

5 Just planting a seed. You guys can think about  
6 that.

7 Jay, do you have something on your General  
8 Manager report?

9 GENERAL MANAGER PUNIA: I think a few items, just  
10 I'm going to highlight the items. And if the Board is  
11 interested, they can ask me individually or right now I  
12 can elaborate.

13 We had a Sacramento River Flood Control Action  
14 Committee meeting. Board Member Lady Bug, Jay Punia, and  
15 Keith Swanson briefed the Committee on various issues.

16 To draw an impact analysis we plan to bring the  
17 report to you by end of February. Budget change proposals  
18 are based on Department of Finance comments. We have Dan  
19 Fua and myself as -- of other change proposals. And it's  
20 resubmitted back to the Department's Budget Office and it  
21 went to Department of finance.

22 Board-sponsored workshop. As Ricardo mentioned,  
23 one of the scenario is in this item 43 that the Board has  
24 indicated that if the districts are not maintaining the  
25 levees based upon their standard score as a delist --

1 single district from a PL 84-99 levee rehab program and it  
2 has also implication on the FEMA certification. So we are  
3 having a workshop to inform all the local partners on  
4 this. The workshop is on December 20th from 9 to 11 a.m.  
5 in this auditorium.

6 Floodway Protection Section has digitized the  
7 1957 and 1955 profile in color. And we are going to put  
8 those profiles on the Rec Board website.

9 A major application submitted last month is the  
10 Sacramento Area Flood Control application. They have  
11 submitted one application overall for the Natomas Basin,  
12 and a second application is for the cross canal levee  
13 strengthen, not the levee raising. So those are the main  
14 major applications submitted to the Board.

15 I think that's it for my report.

16 PRESIDENT CARTER: Okay. Any questions for Mr.  
17 Punia?

18 BOARD MEMBER RIE: Just one quick request.

19 If we could start putting the staff reports back  
20 on the website as we receive them. I know they trickle in  
21 everyday. But if we could put those on the website, it  
22 would really help. I know I didn't get a few of them.

23 That's it.

24 PRESIDENT CARTER: All right. Future agenda.  
25 Burning question: Are we going to have a January meeting

1 or not? It's traditional to -- with past Boards not to  
2 have January meetings. We did have a January meeting last  
3 year. We have a very full plate and there are some  
4 informational items that will probably be useful to hear  
5 in January. And my suggestion would be to go ahead and  
6 have a January meeting. But it's up to the pleasure of  
7 the Board.

8 SECRETARY DOHERTY: I think we can't function  
9 without having a January meeting.

10 BOARD MEMBER BURROUGHS: I'd like to have one in  
11 January.

12 PRESIDENT CARTER: Okay.

13 VICE-PRESIDENT HODGKINS: I agree.

14 PRESIDENT CARTER: All right.

15 SECRETARY DOHERTY: And on the draft proposal,  
16 there was a request also that the Tisdale Weir be placed  
17 on the January agenda.

18 PRESIDENT CARTER: Okay.

19 SECRETARY DOHERTY: Check on that --

20 PRESIDENT CARTER: We had a number of requests  
21 for additional items on the January agenda.

22 SECRETARY DOHERT: And John Bassett is on here.  
23 He requested to be on there.

24 And of course the Three Rivers. But it's on  
25 there.



1           PRESIDENT CARTER: Okay. So we will -- I have  
2 all of those, plus Mr. Foley and Mr. Archer.

3           SECRETARY DOHERTY: I just assumed that was under  
4 Three Rivers.

5           PRESIDENT CARTER: Yeah, that might be -- that  
6 might fall under Three Rivers.

7           SECRETARY DOHERTY: But they did request to be  
8 agendized.

9           BOARD MEMBER RIE: Whatever happened with West  
10 Sacramento? You know, they wanted to come back before the  
11 Board and get some direction on their redevelopment project  
12 that we looked at back in June. Is that going to come  
13 back before the Board at some point? Are you guys ready?

14          PRESIDENT CARTER: What is the status on that?

15          CHIEF ENGINEER BRADLEY: They will come back  
16 before the Board. What they've asked for me to do is to  
17 evaluate what the level is in the river. So far I found  
18 three different defined water surfaces that we needed to  
19 regulate to. There's one in the O&M manual, there's one  
20 on the 1957 profile, and there's a 1992 study that  
21 modified a piece of the 1957 profile. So far I've gotten  
22 three. I haven't looked through everything. There may be  
23 another one or two.

24          PRESIDENT CARTER: So that will come back before  
25 the Board. It doesn't sound like it's quite ready yet.

1           Are they under any time pressure?

2           CHIEF ENGINEER BRADLEY: Well, yes and no. They  
3 want to move forward. There again, this is an agency  
4 that's been coordinating with us on and off for a year,  
5 year and a half, same as River Islands, same as Three  
6 Rivers. Now we've -- today we've thrown in additional  
7 three Rivers review and the SAFCA permit.

8           So something's going to give somewhere. You're  
9 going to have to make a decision on which ones you want to  
10 move forward on.

11          PRESIDENT CARTER: All right. So would --

12          BOARD MEMBER RIE: It sounds like there's enough  
13 for a January meeting.

14          PRESIDENT CARTER: There's plenty for January.

15          So we'll go ahead and plan on having a January  
16 meeting on January 19th here. And we'll try and  
17 incorporate as much on the agenda as is feasible and  
18 feedback we got today and what's ready to go.

19          Any other -- anything that we didn't talk about  
20 that you'd like to have on the agenda or be considered for  
21 a future agenda?

22          Okay. Then we will -- Jay and I will work on  
23 revising this draft and try to finalize that for January.

24          Great.

25          Okay. With that, everybody have a very Happy

1 Holiday season. Happy birthday --

2 BOARD MEMBER RIE: Have a great birthday.

3 BOARD MEMBER BURROUGHS: Thank you.

4 PRESIDENT CARTER: -- RoseMarie.

5 And we are adjourned.

6 (Thereupon the The Reclamation Board open  
7 session meeting adjourned at 4:15 p.m.)

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

## 1 CERTIFICATE OF REPORTER

2 I, JAMES F. PETERS, a Certified Shorthand  
3 Reporter of the State of California, and Registered  
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the  
6 foregoing Reclamation Board meeting was reported in  
7 shorthand by me, James F. Peters, a Certified Shorthand  
8 Reporter of the State of California, and thereafter  
9 transcribed into typewriting.

10 I further certify that I am not of counsel or  
11 attorney for any of the parties to said meeting nor in any  
12 way interested in the outcome of said meeting.

13 IN WITNESS WHEREOF, I have hereunto set my hand  
14 this 10th day of January, 2007.

15  
16  
17  
18  
19  
20  
21  
22 JAMES F. PETERS, CSR, RPR  
23 Certified Shorthand Reporter  
24 License No. 10063  
25